

AGAR-BLUNT-ONIDA SCHOOL DISTRICT 58-3



Sully Buttes Chargers

"Learning for Life"



Agar-Blunt-Onida School District 58-3 Board of Education Special Meeting

Date: September 2, 2020
Time: 6:30 p.m.
Place: Sully Buttes Gym – enter north parking lot door
(social distancing requested)

Agenda:

- 1.) Call to Order & Pledge of Allegiance
- 2.) Changes and Approval of Agenda
- 3.) Parent/Public Input on School Plan
- 4.) Consider Essential Workers Resolution
- 5.) Adjournment

School Board Resolution 2020-21-01

To ensure continuity of operations of essential functions, the Agar-Blunt-Onida School District Board of Education designates all District employees as **Critical Infrastructure Workers** for the duration of the COVID-19 pandemic and while the District is utilizing face-to-face instruction. The A-B-O School District does not have available the necessary substitute teachers in sufficient numbers, nor the necessary personnel to fill in for absent staff members, to keep the school system in operation. The CDC advises that critical infrastructure workers may be permitted to continue working following a potential exposure to COVID-19, provided they remain asymptomatic and additional precautions are implemented to protect them and the school community.

A potential exposure means being a household contact or having close contact within 6 feet of an individual with confirmed or suspected COVID-19. The timeframe for having contact with an individual includes the period of time of 48 hours before the individual became symptomatic.

Critical infrastructure workers who have had an exposure but remain asymptomatic will adhere to the following practices prior to and during their work shift:

- **Pre-Screen**: School secretaries will measure the employee's temperature and assess symptoms prior to the employee starting work in morning and after lunch.
- **Regular Monitoring**: As long as the employee does not have a fever or other symptoms associated with Covid-19, the employee should self-monitor under the supervision of their employer's health program.
- **Wear a Mask**: The employee will wear a face mask at all times while in the workplace for 14 days after last exposure.
- **Social Distance**: The employee should maintain a social distance of 6 feet and practice social distancing as work duties permit in the workplace.
- **Disinfect and Clean Work Spaces**: All work areas such as offices, bathrooms, common areas, and shared equipment will be cleaned routinely.

If the employee becomes ill with Covid-19-like symptomology during the school day, the employee will be sent home immediately. Surfaces in their workspace will be cleaned and disinfected. Appropriate notification to the SD Department of Health will be made following established protocols. Others at the school facility with close contact within six feet of the employee during this time would be considered exposed.

Sources: CDC Interim Guidance for Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19; U.S. CISA Ensuring Essential Critical Infrastructure Workers have the Ability to Work Safely.

SCHOOL DISTRICTS AND CRITICAL INFRASTRUCTURE WORKERS

* Memorandum prepared by ASBSD and SD Council of School Attorneys
August 24, 2020

ASBSD and SD COSA Board of Directors have joined to develop this document to assist public school boards, as they work with their superintendent, when considering whether to deem some or all school employees (positions) as critical infrastructure workers. ASBSD and the COSA Board of Directors request that it be shared with all school board members.

The information presented in this memorandum is given as a general service to ASBSD member school boards, and the information provided is not intended to constitute for and should not be interpreted or used as a substitute for a legal opinion from your school attorney. Before making legal decisions, school boards and administrators should consult with their school attorney.

The template for the document is Cybersecurity & Infrastructure Security Agency (CISA) *Frequently Asked Questions* related to critical infrastructure and critical infrastructure workers. The full CISA document and all of the questions and answers can be found at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>.

What is critical infrastructure? [CISA FAQ # 5]

As defined by USA Patriot Act of 2001 (42 U.S.C. 5195c(e)), critical infrastructure includes any “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.” This definition is appropriately broad to include a wide range of stakeholders who either directly or indirectly enable the functionality of infrastructure systems.¹

* ASBSD/COSA comment: There are 16 critical infrastructure sectors, one being the Government Facilities sector. See Appendix A. **K-12 public education is identified as a critical infrastructure as a subsector within the Government Facilities sector.**

The Education Facilities Subsector covers pre-kindergarten through 12th grade schools, institutions of higher education, and business and trade schools. The subsector includes facilities that are owned by both government and private sector entities.

<https://www.cisa.gov/government-facilities-sector>

¹ *16 Critical Infrastructure Sector* <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>

* ASBSD/COSA comment: On August 18, 2020, CISA issued new Essential Critical Worker guidance (Version 4.0). <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce> . The new guidelines did not add K-12 education as a new 17th critical infrastructure sector. The new guidelines state

“While earlier versions were primarily intended to help officials and organizations identify essential work functions in order to allow them access to their workplaces during times of community restrictions, Version 4.0 identifies those essential workers that require specialized risk management strategies to ensure that they can work safely. It can also be used to begin planning and preparing for the allocation of scarce resources used to protect essential workers against COVID-19.”

The new guidelines go on to state “[w]e recommend that jurisdictions and organizations use the essential critical infrastructure worker list as a tool to begin engaging with the essential worker community in the planning for the allocation of potential scarce resources should COVID-19 cases continue to increase or enter a second wave.”

* ASBSD/COSA comment: On August 18, 2020, CISA issued new *Essential Critical Worker Guidance (Version 4.0)*. <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>

- An Education section was added to the list of identified essential critical infrastructure workers. Previous versions of the list did not include essential workers in critical infrastructure work settings, such as schools, that were presumed to be closed at the time of publication. Reflecting ongoing national discussions around reopening, this version includes these workers. <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>

* ASBSD/COSA comment: The new guidelines includes an *Advisory Memorandum On Ensuring Critical Infrastructure Workers Ability to Work During the COVID-19 Response*. https://www.cisa.gov/sites/default/files/publications/Version_4.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_FINAL%20AUG%2018v2_0.pdf .

The *Advisory Memorandum* states

This list is advisory in nature. It is not, nor should it be considered, a federal directive or standard. Additionally, this advisory list is not intended to be the exclusive list of critical infrastructure sectors, workers, and functions that should continue to work safely during the COVID-19 response across all jurisdictions. ...

IDENTIFYING ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

The following list of identified essential critical infrastructure workers is intended to be overly inclusive reflecting the diversity of industries across the United States.

The CISA *Advisory Memorandum* then identifies Essential Critical Infrastructure Workers in EDUCATION (in addition to workers in other sectors). The same language and list is found in , CISA’s new *Essential Critical Worker Guidance (Version 4.0)*. (<https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>).

- Workers who support the education of pre-school, K-12, college, university, career and technical education, and adult education students, including professors, teachers, teacher aides, special education and special needs teachers, ESOL teachers, para-educators, apprenticeship supervisors, and specialists.
- Workers who provide services necessary to support educators and students, including but not limited to, administrators, administrative staff, IT specialists, media specialists, librarians, guidance counselors, school psychologists and other mental health professions, school nurses and other health professionals, and school safety personnel.
- Workers who support the transportation and operational needs of schools, including bus drivers, crossing guards, cafeteria workers, cleaning and maintenance workers, bus depot and maintenance workers, and those that deliver food and supplies to school facilities.
- Workers who support the administration of school systems including, school superintendents and their management and operational staff.
- Educators and operational staff facilitating and supporting distance learning.

https://www.cisa.gov/sites/default/files/publications/Version_4.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_FINAL%20AUG%2018v2_0.pdf

* ASBSD/COSA: Should school boards consider identifying which school employees (positions) are critical infrastructure employees?

Answer: Yes, it is recommended that school boards consider and determine whether their school employees are to be deemed as critical infrastructure employees, and if so, which employees. As just noted, the Government Facilities sector, Education Facilities Subsector, includes pre-kindergarten through 12th grade public schools as critical infrastructure. ASBSD and the COSA Board of Directors submit that the local school board has the sole responsibility and authority to decide whether school employees/positions are deemed to be critical infrastructure workers, and furthermore formal school board action (motion, second, discussion and vote) would be required in order for the Board to designate any employee/position to be a critical infrastructure worker.

* ASBSD/COSA: Why is it important for school boards to consider identifying whether school employees (positions) are critical infrastructure employees?

Answer: Determining whether school employees (positions) are critical infrastructure employees has significant ramifications in the school setting, for employees in positions deemed to be critical infrastructure employees, and also for students, parents, co-employees, school administrators, and the school district as a whole.

CDC guidance states “[t]o ensure continuity of operations of essential functions, CDC advises that critical infrastructure workers may be permitted to continue work following potential exposure to COVID-19, provided they remain asymptomatic and additional precautions are implemented to protect them and the community.”

<https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>

CISA guidance states “CDC advises that critical infrastructure workers may be permitted to continue work following potential exposure to COVID-19, provided they remain asymptomatic and additional precautions are implemented to protect them and the community.” <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>

The SD Department of Health has stated “CDC advises that critical infrastructure workers may continue working even if identified as a close contact to a positive COVID case, provided they remain asymptomatic and take necessary precautions.” (Emphasis added). <https://doe.sd.gov/coronavirus/documents/DOE-DOH-073020.pdf> (power point, slide 9).

The guidance uses the term “may” and not “should” or must.” As indicated above, it is up to local school boards to determine whether their school employees are to be deemed as critical infrastructure employees, and if so, which employees.

* ASBSD/COSA: Why/how is the CDC/CISA/SD DOH guidance that critical infrastructure workers may continue working even if identified as a close contact to a positive COVID case (as long as the employee remains asymptomatic and takes necessary precautions) important?

Answer: According to the CDC, Public Health Guidance for Community-Related Exposure, Updated July 31, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>, a person is identified as having “close contact” if the person, even if the person having the close contact or the other person with confirmed or symptoms of COVID-19 was wearing a mask, or whether the person having the contact was wearing respiratory personal protective equipment (PPE),

- was within 6 feet of another person for at least 15 minutes when the other person had COVID-19 symptoms (including the period from 2 days before symptom onset until the other person met criteria for discontinuing home isolation;), or
- with 6 feet of another person for at least 15 minutes if the other person tested positive for COVID-19 (laboratory confirmed) but has not had any symptoms in the 2 days before the date of specimen collection until they meet criteria for discontinuing home isolation.

Under the guidance by CDC, CISA and the SD Dept. of Health, if a person is identified as a “close contact” to a positive COVID case, the person having “close contact” should stay home until 14 days after last exposure and maintain social distance (at least 6 feet) from others at all times, self-monitor for symptoms, check temperature twice a day, watch for fever, cough, or shortness of breath, or other symptoms of COVID-19, avoid contact with people at higher risk for severe illness from COVID-19, and follow CDC guidance if symptoms develop. <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>

HOWEVER, if a person is a critical infrastructure employee, the general guidance does not apply. If the person having “close contact” is a critical infrastructure employee, the CDC guidelines state

To ensure continuity of operations of essential functions, CDC advises that critical infrastructure workers may be permitted to continue work following potential exposure to COVID-19, provided they remain asymptomatic and additional precautions are implemented to protect them and the community.

A potential exposure means being a household contact or having close contact within 6 feet of an individual with confirmed or suspected COVID-19. The timeframe for having contact with an individual includes the period of time of 48 hours before the individual became symptomatic.

Critical Infrastructure workers who have had an exposure but remain asymptomatic should adhere to the following practices prior to and during their work shift:

- Pre-Screen: Employers should measure the employee's temperature and assess symptoms prior to them starting work. Ideally, temperature checks should happen before the individual enters the facility.
- Regular Monitoring: As long as the employee doesn't have a temperature or symptoms, they should self-monitor under the supervision of their employer's occupational health program.
- Wear a Mask: The employee should wear a face mask at all times while in the workplace for 14 days after last exposure. Employers can issue facemasks or can approve employees' supplied cloth face coverings in the event of shortages.
- Social Distance: The employee should maintain 6 feet and practice social distancing as work duties permit in the workplace.
- Disinfect and Clean work spaces: Clean and disinfect all areas such as offices, bathrooms, common areas, shared electronic equipment routinely.

If the employee becomes sick during the day, they should be sent home immediately. Surfaces in their workspace should be cleaned and disinfected. Information on persons who had contact with the ill employee during the time the employee had symptoms and 2 days prior to symptoms should be compiled. Others at the facility with close contact within 6 feet of the employee during this time would be considered exposed.

<https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html> April 20, 2020

* ASBSD/COSA comment: The SD Department of Health determines through tracing which persons were in "close contact" for purposes of self-quarantining under the guidelines. It is not for the school or a person who thinks they had been in close contact to make the determination there had been "close contact."

* ASBSD/COSA: If K-12 public education is deemed critical infrastructure, aren't all school employees automatically critical infrastructure workers?

Answer: No. Being considered critical infrastructure does not automatically mean that all school employees are critical infrastructure workers. CISA's *Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response Version 3.1 (May 19, 2020)* states that the guidance is "intended to

support state, local, tribal, territorial and industry partners in identifying the critical infrastructure sectors and the essential workers needed to maintain the services and functions Americans depend on daily and that need to be able to operate resiliently during the COVID-19 pandemic response.” (Emphasis added). Appendix C.
[https://www.cisa.gov/sites/default/files/publications/Version 4.0 CISA Guidance on Essential Critical Infrastructure Workers FINAL%20AUG%2018v2_0.pdf](https://www.cisa.gov/sites/default/files/publications/Version_4.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_FINAL%20AUG%2018v2_0.pdf)

The guidance goes on to state “[t]his document gives advisory guidance on defining essential critical infrastructure workers. Promoting the ability of such workers to continue to work during periods of community restriction, access management, social distancing, or closure orders/ directives is crucial to community resilience and continuity of essential functions. The term ‘workers’ as used in this guidance is intended to apply to both employees and contractors performing the described functions.”

CISA guidance then lists a number of considerations when identifying/defining critical infrastructure workers. The full list of CISA guidance considerations can be found on Appendix C. Below are several of the considerations which are very applicable to public schools:

- Employers **must** comply with applicable Occupational Safety and Health Administration (OSHA) requirements for protecting critical infrastructure workers who remain on or return to the job during the COVID-19 pandemic. (Emphasis added).
- Businesses and government agencies may continue to implement organization-specific measures, which protect the workforce while meeting mission needs.
- Workers should be encouraged to work remotely when possible and focus on core business activities. In person, non-mandatory activities should be delayed until the resumption of normal operations.
- When continuous remote work is not possible, businesses should enlist strategies to reduce the likelihood of spreading the disease. This includes, but is not limited to, physically separating staff, staggering work shift hours or days, and other social distancing measures. While the CDC recommends that everyone wear a cloth face cover to contain respiratory droplets when around others, critical infrastructure employers must consider how best to implement this public health recommendation for source control in the workplace. For example, employers may provide disposable facemasks (e.g., surgical masks) instead of cloth face coverings when workers would need to wear masks for extended periods of time (e.g., the duration of a work shift) or while performing tasks in which the face covering could become contaminated.

* ASBSD/COSA: So how does a school board decide which employees/positions are critical infrastructure workers?

Answer: One place to start is to review and consider the school district’s essential functions, and then review and consider the job descriptions for the various staff positions within the school district. It may be that every staff position within the school district is held by an employee who is a critical infrastructure worker, which would mean that the employee may be at the worksite even though she/he had close contact with someone who exhibited symptoms of or had tested positive for COVID-19.

While the CISA guidance is there to assist school boards is significant, it is guidance and not a requirement. It is up to the school board to determine whether individual employees/positions are critical infrastructure workers. Also, even if the employee/position would be deemed a critical infrastructure worker/position, whether the person is at the worksite (and following the CDC guidance), works remote, or is on leave, after having has close contact, would be a decision for the school board (and school administration, within the parameters set by the school board). If the employee was not designated as a critical infrastructure worker, the employee would automatically be off-site for at least the required 14 calendar days.

*

Should the school board designate certain positions as critical infrastructure workers, the Board should definitely consider including within the designation that the position so designated maintains that designation until further notice by the Superintendent. Because some districts may move from on-site educational services to remote service, it is important to have the flexibility to change the designation off of the "critical infrastructure worker" designation.

The question is ultimately whether it is essential that an employee in a specific position to be working on-site in order for the school district to fulfill its essential function. The Board should make that decision on a position-by-position basis.

* ASBSD/COSA FAQ: Are there other considerations which a school board should think about as it considers whether an employee/position is or is not a critical infrastructure worker?

Answer: Yes, a number of them. In addition to keeping in mind the CDC guidelines related to critical infrastructure workers who have had an exposure but remain asymptomatic adhering to the practices prior to and during their work shift,² there may be employee, substitute employee, collective bargaining/negotiations, public response to having employees designated critical infrastructure workers, and also potential liability considerations.

The decision as to whether or not an employee/position is deemed a critical infrastructure worker likely would not be considered a mandatory subject of bargaining with the bargaining unit. However, should the school board deem an employee/position a critical infrastructure worker it is quite possible that certain related topics could be mandatory subjects of bargaining. Examples of topics that may be deemed mandatory topics of bargaining include, but certainly not limited to, such things as additional sick leave or personal leave days, district provided PPE (personal protective equipment), the district

² The CDC guidelines related to critical infrastructure workers who have had an exposure but remain asymptomatic adhering to the practices prior to and during their work shift: pre-screening, regular monitoring, wearing a mask, social distancing and disinfecting and cleaning work spaces, sending home immediately an employee who becomes sick during the day, cleaning and disinfecting surfaces in the employee's workspace, getting information on persons who had contact with the ill employee during the time the employee had symptoms and 2 days prior to symptoms, and recognizing that others who that others who had been in close contact with the employee would be considered exposed. (See p. 3).

paying for testing should an employee have close contact with anyone showing COVID-19 symptoms or who tested positive as having COVID-19, whether employees who have had close contact are required to self-report to their supervisor after the close contact (and the consequences for the employee for failure to self-report), and even having to negotiate hazardous duty pay. While not subject to mandatory negotiations, those same considerations could apply to all employees/positions designated as critical infrastructure workers, not only those employees in a bargaining unit.

- School boards and administrators should keep in mind that the Emergency Paid Sick Leave Act (EPSLA) applies to all persons employed by the school district even if they are designated as critical infrastructure workers. 29 CFR § 826.30(a). The Emergency Family Medical Leave Expansion Act (EFMLEA)³ applies to all school employees designated as critical infrastructure workers if the person has been employed at least thirty calendar days. 29 CFR § 826.30(b).
- Under EPSLA, schools must provide up to 80 hours of paid sick leave to an employee who is unable to work because the employee (1) is subject to a quarantine or isolation order, (2) has been advised by a health care provider to self-quarantine, (3) is experiencing symptoms and seeking medical diagnosis, (4) is caring for an individual who is subject to an order as described in (1), (5) is caring for a son or daughter whose childcare has been closed or is unavailable because of COVID-19; or (6) the employee has a substantially similar condition specified by the Secretary of Health and Human Services. 29 CFR § 826.20(a).
- The Extended Family Medical Leave Emergency Act (EFMLEA) adds as a qualifying FMLA reason when parents can't be at work because their child's school or childcare services are closed due to the pandemic. 29 CFR § 826.20(a).

Another important consideration is whether to do the designation on a position-by-position basis or an individual employee basis. While it definitely would be easier to do it on a position-by-position basis, there would certainly be exceptions to the general rule. The employee's age and underlying health condition are the two primary examples where there could and likely would be exceptions.

Written notice to employees if they are designated critical infrastructure employees should be given to those employees.

School boards also may want to consider and evaluate the availability of substitute employees in each position (i.e., not only teachers, but paraprofessionals, custodians, support staff, etc.) should staff members have close contact with someone who has been exposed to or tested positive for COVID-19, and balance that consideration with the potential health risks to the employee, students and co-workers (and the families of both) should the critical infrastructure worker remain at the worksite instead of self-quarantining. On a related note, school boards should consider the public response to the school board designating positions as critical infrastructure workers, especially if the designated position is a teacher or classroom aide, with

³ Both EPSLA and EFMLEA are provisions within the Family First Coronavirus Response Act (FFRCA) passed into law earlier this year. The EPSLA and EFMLEA federal regulations are found at <https://www.govinfo.gov/content/pkg/FR-2020-04-06/pdf/2020-07237.pdf>.

the result being that the employee, who has been in close contact with a symptomatic person or person who has tested positive, is in the classroom and not self-quarantining.

The last consideration is potential liability arising out of the decision to designate employees as critical infrastructure employees. Districts should consult with their school attorneys and insurance carriers on the issue of liability. While the issue of causation would be a large hurdle for a plaintiff to overcome, it is not a large hurdle for filing a lawsuit against the school district. The Plaintiff's theory would be that if self-quarantining is recommended for someone who had close contact with a person who had symptoms or had tested positive and the school allowed (or required) that same person to work on-site because of their status as a critical infrastructure worker and the school was therefore responsible for someone being infected because schools are not required to follow the guidance.

CONCLUSION: Whether or not to deem school employees as critical infrastructure employees is not a decision to be made lightly. As indicated above, there are a number of considerations when deciding whether someone in a specific position is a critical infrastructure employee. As there is no specific federal or state rule on what school employees are critical infrastructure workers, or how to designate them, it is left to local school boards to make those decisions. *It is strongly recommended that public school districts consult with their school attorney when making decisions related to school employees being designated critical infrastructure workers.*

APPENDIX A

I. CYBERSECURITY AND INFRASTRUCTURE SECURITY ADMINISTRATION (CISA): CRITICAL INFRASTRUCTURE SECTORS Original release date: March 05, 2013 | Last revised: March 24, 2020 <https://www.cisa.gov/critical-infrastructure-sectors>

16 Critical Infrastructure Sectors

There are 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, national economic security, national public health or safety, or any combination thereof. Presidential Policy Directive 21 (PPD-21); PPD-21 identifies 16 critical infrastructure sectors.

Chemical Sector

Commercial Facilities Sector

Communications Sector

Critical Manufacturing Sector

Dams Sector

Defense Industrial Base Sector

Emergency Services Sector

Energy Sector

Financial Services Sector

Food and Agriculture Sector

Government Facilities Sector

Healthcare and Public Health Sector

Information Technology Sector

Nuclear Reactors, Materials, and Waste Sector

Transportation Systems Sector

Water and Wastewater Systems Sector

APPENDIX B

GOVERNMENT FACILITIES SECTOR <https://www.cisa.gov/government-facilities-sector> Original release date: June 12, 2014 | Last revised: December 04, 2018

The Government Facilities Sector includes a wide variety of buildings, located in the United States and overseas, that are owned or leased by federal, state, local, and tribal governments. Many government facilities are open to the public for business activities, commercial transactions, or recreational activities while others that are not open to the public contain highly sensitive information, materials, processes, and equipment. These facilities include general-use office buildings and special-use military installations, embassies, courthouses, national laboratories, and structures that may house critical equipment, systems, networks, and functions. In addition to physical structures, the sector includes cyber elements that contribute to the protection of sector assets (e.g., access control systems and closed-circuit television systems) as well as individuals who perform essential functions or possess tactical, operational, or strategic knowledge.

Sector Overview

The Education Facilities Subsector covers pre-kindergarten through 12th grade schools, institutions of higher education, and business and trade schools. The subsector includes facilities that are owned by both government and private sector entities. (Emphasis added).

The National Monuments and Icons Subsector encompasses a diverse array of assets, networks, systems, and functions located throughout the United States. Many National Monuments and Icons assets are listed in either the National Register of Historic Places or the List of National Historic Landmarks.

The Election Infrastructure Subsector covers a wide range of physical and electronic assets such as storage facilities, polling places, and centralized vote tabulations locations used to support the election process, and information and communications technology to include voter registration databases, voting machines, and other systems to manage the election process and report and display results on behalf of state and local governments.

Sector-Specific Plan

The Government Facilities Sector-Specific Plan details how the National Infrastructure Protection Plan risk management framework is implemented within the context of the unique characteristics and risk landscape of the sector. Each Sector-Specific Agency develops a sector-specific plan through a coordinated effort involving its public and private sector partners. The National Monuments and Icons Sector was consolidated within the Government Facilities Sector in 2013 under Presidential Policy Directive 21. The Department of Homeland Security and the General Services Administration are designated as the Co-Sector-Specific Agencies for the Government Facilities Sector.

Sector Resources

For resources available to Government Facilities Sector partners, visit the [Interagency Security Committee website \[https://www.cisa.gov/isc\]](https://www.cisa.gov/isc) or the [General Services Administration website](https://www.gsa.gov).

APPENDIX C

https://www.cisa.gov/sites/default/files/publications/Version_4.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_FINAL%20AUG%2018v2_0.pdf

Version 4.0 (August 18, 2020) **ENSURING ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS HAVE THE ABILITY TO WORK SAFELY**

Functioning critical infrastructure is imperative during the response to the COVID-19 emergency for both public health and security as well as community well-being. While stopping the spread of the virus and protecting the most vulnerable among us rightfully remain national priorities, a degradation of infrastructure operations and resilience only makes achieving those missions more difficult. Recognizing this, CISA published guidance identifying Essential Critical Infrastructure Workers at the outset of the COVID-19 pandemic. This guidance was adopted broadly across the country and was subsequently updated as the response evolved. This update, Version 4.0, continues to advance the guidance considering developments in pandemic response to support a risk-based approach towards worker safety to ensure the continuity of critical functions.

CISA appreciates the partnership with the critical infrastructure community in developing the guidance. The Nation's infrastructure resilience was undoubtedly enhanced by a common approach to, and prioritization of, essential critical infrastructure workers being able to work during periods of community restrictions. As with previous guidance, this list is advisory in nature. It is not, nor should it be considered, a federal directive or standard. Additionally, this advisory list is not intended to be the exclusive list of critical infrastructure sectors, workers, and functions that should continue during the COVID-19 response across all jurisdictions. Individual jurisdictions and critical infrastructure owners and operators should add or subtract essential workforce categories based on their own requirements and discretion.

Central to the value of the guidance in the early months of the pandemic was the discrete problem it was intended to support solutions for – enabling essential workers to work during community restrictions. While CISA continues to engage with stakeholders to identify workforce limitations that may impact infrastructure resilience, it is our assessment that, for the most part, essential workers are able to work – what is now most important is that essential workers are able to work in a safe environment.

Recognizing this, the Essential Critical Infrastructure Workers guidance can add the most value going forward by illuminating the universe of workers that require particularly thoughtful and deliberate risk management strategies so that they can continue to work safely.

CISA recognizes that states and localities across the country have undergone a phased re-opening of businesses, public lands, and other places of community and civic importance. Previous versions of the list did not include essential workers in critical infrastructure work settings, such as schools, that were presumed to be closed at the time of publication. Reflecting ongoing national discussions around reopening, this version includes these workers, in addition to other adjustments. As we enter the next stage in the pandemic response and schools and additional businesses reopen, CISA encourages jurisdictions and critical infrastructure owners to use the list to assist in prioritizing the ability of essential workers to work safely to ensure ongoing infrastructure operations and resilience. [Emphasis original.]

Doing so will require looking at the universe of workers on the Essential Critical Infrastructure Workforce list and identifying tailored risk mitigation strategies for specific workplace settings. These could include:

Creating a Risk Categorization Methodology for Worker Safety. We recommend that organizations continue to categorize their employees against a risk factor matrix so that mitigation strategies can be implemented to enhance safety. The risk categorization factors that should be considered include:

Setting: Are workers indoors or outdoors?

Proximity: How physically close are workers (and customers) to each other?

Type of contact: Do workers touch shared surfaces, common items, and other workers or customers?

Duration: How long does an average interaction last?

Number of different contacts: How many interactions occur daily?

Employee risk factors: Which workers face heightened risk due to their age or underlying medical conditions?

Capability to assess possible infection: Are there screening protocols that protect workers (and customers) from interactions with contagious people?

Cleaning: How frequently can the facility be sanitized and cleaned?

Based on the responses to these risks, organizations can categorize the conditions that their workers face and continue to implement measures to increase worker well-being. In other words, increased protective measures should be based on those with high risk factors. Risk categorization guidance assistance can be found at OSHA.

Identifying those workers that can potentially transition to working from home based on the lessons learned over the past few months from the unprecedented number of teleworkers. We encourage employers to take a fresh look at the job functions of their workforce to determine if it is necessary for workers to be in the office given the technology breakthroughs that have eased some of the roadblocks to working remotely.

Determining the criticality, uniqueness, or specialty of a worker's role to reduce the need to be at the workplace or working together in close proximity. There are some functions that are either so essential to supporting the national critical functions and other lifeline support, such as first responders or utility workers, or that are unique or require a special skill set, that these workers must often be at the same workplace or together out in the field. We recommend that organizations re-examine whether these job functions can be conducted from home and if not, if shift work or remaining with a cohort can be conducted to allow for more social distancing.

Determining the allocation of scarce resources for workers, such as personal protective equipment (PPE), other protection, access to medical evaluation, testing, and vaccines. We recommend that jurisdictions and organizations use the essential critical infrastructure worker list as a tool to begin engaging with the essential worker community in the planning for the allocation of potential scarce resources should COVID-19 cases continue to increase or enter a second wave. Planning is critical to ensuring that workers are able to continue performing essential tasks supporting critical infrastructure. Furthermore, it will be critical that workers who perform essential tasks and/or have consistent interactions with at-risk populations (e.g., the elderly or those with pre-existing conditions) obtain the necessary resources to reduce the transmission of the virus.

In addition to the aforementioned characteristics of the worker and workplace, there may be local factors that influence COVID-19 risk mitigation plans including, infection rate and trends, the availability and

timeliness of testing, the criticality of the business and worker to the local or state economy, and the need to prepare and respond to other localized events such as hurricanes, wildfires, or tornadoes.

The following links can provide additional guidance on health, workplace, and worker safety issues related to the pandemic:

CDC Safety Practices for Critical Infrastructure Workers: Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19

OSHA/HHS Workplace Guidance: Guidance for Preparing Workplaces for COVID-19

CISA Telework Guidance: Telework Guidance and Resources

CISA General Guidance: CISA Information & Updates on COVID-19

CISA will continually solicit and accept feedback on the list and will evolve the list in response to stakeholder feedback. We will also use our various stakeholder engagement mechanisms to work with partners on how they are using this list and share those lessons learned and best practices broadly. Feedback can be sent to CISA.CAT@CISA.DHS.GOV.

CONSIDERATIONS FOR GOVERNMENT AND BUSINESS

This list was developed in consultation with federal agency partners, industry experts, and State and local officials, and is based on several key principles:

1. Response efforts to the COVID-19 pandemic are locally executed, state managed, and federally supported.
2. Critical infrastructure workers and employers should follow guidance from the Centers for Disease Control and Prevention (CDC), as well as state and local government officials, regarding strategies to limit disease spread.
3. Employers must comply with applicable Occupational Safety and Health Administration (OSHA) requirements for protecting critical infrastructure workers who remain on or return to the job during the COVID-19 pandemic. As the nation relies on these workers to protect public health, safety, and community well-being, they must be protected from exposure to and infection with the virus so that they can continue to carry out their responsibilities. OSHA has guidance and enforcement information for workplaces at www.osha.gov/coronavirus.
4. Businesses and government agencies may continue to implement organization-specific measures, which protect the workforce while meeting mission needs.
5. Workers should be encouraged to work remotely when possible and, organizations are encouraged to identify alternative methods for safely engaging in activities that typically required in-person, non-mandatory interactions.
6. When continuous remote work is not possible, businesses should enlist strategies to reduce the likelihood of spreading the disease. This includes, but is not limited to, physically separating staff, staggering work shift hours or days, and other social distancing measures. While the CDC recommends that everyone wear a cloth face cover to contain respiratory droplets when around others, critical infrastructure employers must consider how best to implement this public health recommendation for

source control in the workplace. For example, employers may provide disposable facemasks (e.g., surgical masks) instead of cloth face coverings when workers would need to wear masks for extended periods of time (e.g., the duration of a work shift) or while performing tasks in which the face covering could become contaminated.

7. Consider the impact of workplace sick leave policies that may contribute to an employee decision to delay reporting medical symptoms. Sick employees should not return to the workplace until they meet the criteria to stop home isolation. CDC has the following guidance on when it is safe to stop home isolation at <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/end-home-isolation.html>

8. Critical infrastructure employers have an obligation to limit to the extent possible the reintegration of in person workers who have experienced an exposure to COVID-19 but remain asymptomatic in ways that best protect the health of the worker, their co-workers, and the general public. An analysis of core job tasks and workforce availability at worksites can allow the employer to match core activities to other equally skilled and available in-person workers who have not experienced an exposure. CDC guidance on safety practices for critical infrastructure workers is maintained at <https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>.

9. All organizations should implement their business continuity and pandemic plans or put plans in place if they do not exist. Delaying implementation is not advised and puts at risk the viability of the business and the health and safety of the workers. The CDC and OSHA have guidance for workplaces and businesses to assist them plan, prepare, and respond to the pandemic at <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html> and <https://www.osha.gov/SLTC/covid-19>.

10. Ensure that certain workers have consistent access to specific sites, facilities, and assets to ensure continuity of functions. Most of our economy relies on technology and therefore information technology (IT) and operational technology (OT) workers for critical infrastructure operations are essential. This includes workers in many roles, including workers focusing on management systems, control systems, and Supervisory Control and Data Acquisition (SCADA) systems, and data centers; cybersecurity engineering; and cybersecurity risk management.

11. Government workers, such as emergency managers, and the business community need to establish and maintain the practice of openly communicating with one another on such issues as workforce needs and safety as well as the continuity of critical functions.

12. Ensure that essential critical infrastructure workers have continued and unimpeded access to sites, facilities, and equipment within quarantine zones, containment areas, areas under curfew restrictions, or other areas where access or movement is limited, in order to perform functions for community relief and stability; for public safety, security and health; for maintaining essential supply chains for maintaining critical information technology services, and preserving local, regional, and national economic well-being.

13. Whenever possible, local governments should consider adopting specific state guidance on essential workers to reduce potential complications of workers crossing jurisdictional boundaries. When this is not possible, local jurisdictions should consider aligning access and movement control policies with neighboring jurisdictions to reduce the burden of cross-jurisdictional movement of essential critical infrastructure workers.

