

May 6, 2021

**Questions and Answers:
Section 22 Class Order to education providers limiting in-person
attendances of school-aged children**

Q1. What is a class order?

A1. A class order is an order made under the Health Protection and Promotion Act by the Medical Officer of Health, requiring a class of persons to take or refrain from taking any action in respect of a communicable disease.

Q2. Under what authority has this Class Order been issued?

A2. Section 22 of the Health Protection and Promotion Act authorizes the Medical Officer of Health to issue a class order where necessary to address the risks presented by the potential spread of COVID-19 to Toronto residents.

Q3. Who is this Order directed to?

A3. The Order applies to all persons, including corporations, providing education to school-aged children, regardless of whether or not they qualify as a school within the meaning of the Education Act.

Specifically, the Order applies to all persons, including corporations, boards, and directors, who own, occupy, or operate a facility or place that operates as a school, like a school, and/or that hosts or offers in-person teaching or learning. It also applies to all persons who operate or administer a program or activity at any such location (that is at any educational setting). This includes teachers and program administrators.

The Order is not directed at parents or students/school-aged children.

Q4. When is the Class Order effective?

A4. Monday, May 10 at 12:01 a.m.

Q5. What is the difference between the Provincial school closure and this Order?

A5. The provincial rules requiring the closure of schools in Ontario are set out at Section 3, Schedule 3 of Ontario Regulation 82/20, as amended (the "Lockdown Regulation"). It provides that schools and private schools within the meaning of the Education Act shall not provide in-person teaching or instruction, subject to certain

limited exceptions (the provincial "Schools Closure"). The Order does not change the Schools Closure, but supplements it. The Order adds that education providers shall limit their students from attending the school premises except for limited purposes.

Q6. Aren't schools closed? Why do we need to augment restrictions at schools?

- A6. The provincial Schools Closure only applies to schools and private schools within the meaning of the Education Act. There are a variety of education providers that provide in-person teaching and instruction to school-aged children that do not qualify as a "school or private school" within the meaning of the Education Act". The Schools Closure also only provides that schools "shall not provide in-person teaching or instruction" and does not prohibit school-aged children from attending school premises for purposes other than for "teaching or instruction" despite that same health risk occurring.

The s. 22 Order is aimed at supplementing the Schools Closure in order to stop school-aged children from congregating indoors, in enclosed spaces, for extended periods, on a regular basis.

Q7. How will this Order be enforced?

- A7. TPH will work to ensure that all schools and education providers in Toronto are aware of and understand their obligations under the Order. TPH will continue to monitor the complaints it receives regarding schools and education providers and follow-up on such complaints and investigate as appropriate.

If a school or education provider fails to obey the Order, they may be charged under the Provincial Offences Act for failure to comply with an order issued under the Health Protection and Promotion Act. Such a charge may be laid as a ticket, in which case the ticket carries a set fine of \$750 plus court costs and a victim fine surcharge. Alternatively, the charge may be laid as a court summons with a maximum fine on conviction of \$5000 for individuals and \$25,000 for corporations for every day or part of a day on which the offence occurs or continues.

Schools and education providers who fail to observe relevant provincial requirements under the Lockdown Regulation and/or Stay-at-Home order may also be charged under the Reopening Ontario Act and/or Emergency Management and Civil Protection Act.

Q8. My child continues to attend their school premises for reasons not listed as exempted under the Order, can I be charged? Can my child?

- A8. Parents and children cannot be charged for failure to obey the Order because the Order is not directed at parents and children, rather it is directed at the schools and education providers. However, all persons in Toronto are encouraged to respect the

goal of the province-wide Stay-at-Home Order and ensure that all individuals remain in their residence at all times unless leaving is necessary for a permitted purpose.

Q9. Why was this Order important now?

A9. Toronto continues to see extensive community spread of variants of concern of COVID-19. The risk of transmission of COVID-19 is greatest in close contact and indoor environments, including schools and other educational institutions where groups of children gather for extended periods. This risk is heightened where persons are in an indoor space for an extended period of time, especially when rates of COVID-19 in the community are high. It is important that Toronto Public Health and all Torontonians continue efforts to limit transmission of COVID-19 as much as possible, particularly where more and more evidence is emerging that in the third wave of COVID-19, persons under 18 years old have been infected with COVID-19 at higher rates than previously.

Q10. Can children play in the playground when a school is closed?

A10. Yes. So long as the attendance is not associated with school operations, school-aged children are allowed to access outdoor amenities on school premises that are otherwise permitted to be open under the Lockdown Regulation, such as playgrounds.

Q11. Can someone legally challenge this class Order?

A11. A class member can challenge the Order by appealing to the Health Services Appeal and Review Board, in writing, requesting a hearing within 15 days after publication of this Order or in accordance with applicable law. At this time, all requests for appeals and reviews, submissions, materials, and inquiries must be sent to the Health Services Appeal and Review Board by e-mail to hsarb@ontario.ca or faxed at 416-327-8524. See: <http://www.hsarb.on.ca/> for current information.

Q12. What is the end-date for the Order?

A12. This Order will no longer be effective when the Medical Officer of Health deems it is not needed to control the spread of COVID-19 in Toronto.