

**SOUTH DAKOTA BOARD OF REGENTS**

**Full Board**

**REVISED  
AGENDA ITEM: 3 – C  
DATE: July 22, 2020**

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**SUBJECT**

**COVID-19 Fall Semester Planning (Placeholder)**

**CONTROLLING STATUTE, RULE, OR POLICY**

None

**BACKGROUND / DISCUSSION**

This item shall serve as a placeholder in the event Board discussion and/or action is necessary to accommodate any fall semester planning/considerations related to the COVID-19 pandemic.

**IMPACT AND RECOMMENDATIONS**

To be determined.

**ATTACHMENTS**

Attachment I – COVID-19 Face Covering Protocol

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**RECOMMENDED ACTION:**

To be determined.

### **COVID-19 Face Covering Protocol**

The face covering protocol contained herein is intended to serve as the framework under which the Board of Regents (“BOR”) may adjust operations in a timely and tempered fashion to accommodate the changing COVID-19 landscape on its campuses and their respective communities. Significant community spread and/or other extenuating circumstances may result in campuses/locations operating at differing levels. The variables informing the face covering level in effect on a campus/location will be continuously monitored and the face covering level adjusted, as necessary and appropriate, to align with the current campus/community COVID-19 environment.

The requirement to wear face coverings in any given setting is just one of many measures taken by the campuses to promote and maintain healthy environments and operations on campus. In settings in which achieving the Centers for Disease Control and Prevention (“CDC”) recommended social distancing is difficult, campuses are utilizing modified layout, physical barriers, guides, etc. to maximize distancing and limit contact, to the extent reasonably practical. During the implementation of any face covering requirement level contained herein, institutions will assess, post and enforce revised occupancy limits for classrooms, conference rooms and other public areas on campus to account for the reduced capacity necessary to accommodate adequate social distancing (“COVID Capacity”). While the implementation of the levels contained herein may only require face coverings in certain settings on campus, the BOR encourages individuals to take personal responsibility to care for themselves and those around them, and in doing so, highly encourages the wearing of face coverings in all public areas on campus.

The protocol contained herein applies to all students, staff, faculty and visitors on campus. Institutions shall provide training, which may include the provision of training aids or other informational materials, to students, faculty and staff on the appropriate wearing of face coverings, in addition to providing face coverings for students, faculty and staff required to wear face coverings pursuant to this protocol. In settings in which face coverings are required, individuals shall properly wear a cloth or other face covering recognized by the CDC as being effective in reducing the spread of COVID-19. Failure to adhere to the face covering protocol in effect may result in adverse action under applicable BOR and/or institutional policy. Nothing contained herein should be construed to limit or otherwise infringe upon an individual's right to request an accommodation in accordance with the Americans with Disabilities Act (“ADA”) or other applicable law.

**Level 1:** Face coverings required in all classroom/lab settings in which the course delivery/experience necessitates close proximity and/or physical contact, leaving CDC recommended social distancing inherently impractical. Courses impacted at this level are those which require individuals to be in close proximity for hands-on teaching and learning, equipment use, practical experiences, etc., and would include, but aren't limited to:

- Instructional laboratories (e.g. science laboratories, engineering laboratories)
- Clinical training courses and environments (e.g. simulation centers)
- Gross anatomy courses and environments
- Art studios
- Design studios
- Digital arts studios (e.g. digital sound and animation)
- Performing Arts courses and environments (e.g. individual lessons)
- Animal science and care courses

The Provosts, or other designated vice president(s) on campus, are responsible for reviewing and approving classroom/lab settings in which the course delivery/experience warrants requiring face coverings pursuant to the Level 1 parameters. Students enrolled in any course/lab subject to the Level 1 face covering requirement shall be notified in advance of the start of class, or as soon as practical after implementation of the Level 1 protocol, informing the students of the face covering requirement, in addition to any alternative delivery methods available and the process for requesting an accommodation in accordance with the ADA or other applicable law.

**Level 2:** Face coverings required in all public areas of buildings on campus in which courses/labs are held (e.g., classrooms, hallways and common areas). In addition to the classroom/lab buildings, Level 2 also requires the wearing of face coverings in other indoor campus settings in which 30 or more individuals congregate/interact and maintaining CDC recommended social distancing is difficult (e.g., grab and go in the dining facility, large indoor meetings/events, hallways which are congested during certain time periods, etc.). If in effect, each institution shall identify and post on its webpage the common areas on campus subject to, and the requirements of, the Level 2 protocol, to include the process for requesting an accommodation in accordance with the ADA or other applicable law.

**Level 3:** Face coverings required in all public indoor spaces on campus. If in effect, each institution shall post on its webpage the areas on campus subject to, and the requirements of, the Level 3 protocol, to include the process for requesting an accommodation in accordance with the ADA or other applicable law.

**Level 4:** Face coverings required all public indoor and outdoor areas on campus. If in effect, each institution shall post on its webpage the areas of campus subject to, and the requirements of, the Level 4 protocol, to include the process for requesting an accommodation in accordance with the ADA or other applicable law.

### **Enforcement Protocol**

Maintaining a healthy and safe educational environment for students, faculty, staff and visitors on our campuses is paramount. The measures contained herein are in furtherance of that objective, leaving compliance with the same of the utmost importance. The initial response by an Institution or any of its employees to an individual found in non-compliance with the COVID-19 Face Covering Protocol in effect on campus is to inform the individual of their deficiency, and if they fail to immediately correct the deficiency, the individual will be asked to leave the area. Students, faculty, staff and visitors who fail to comply with the COVID-19 Face Covering Protocol may be subject to discipline or other adverse action in accordance with applicable BOR and/or Institutional policy.

Students observed to be out of compliance with the applicable COVID-19 Face Covering Protocol shall be addressed as follows.

1. Informal Correction:

- a. Institutional Official informs student of options to address the non-compliance such as, but not limited to, providing resources to obtain a cloth face covering, vacating the area, scheduling a virtual meeting, or information regarding available virtual educational options.
- b. Should the student request a reasonable accommodation regarding the use of a face covering, they will be immediately directed to the Disability Services office at their respective Institution to complete the request for an accommodation, and if approved, such approval will be communicated to the student and student's faculty members through the normal accommodation process.
- c. Should student promptly comply with the warning of the alleged non-compliance, the Institution shall determine the alleged violation no longer credible.

2. Formal Correction:

- a. If a student fails to promptly comply, the Institutional Official will direct the student to leave the area immediately.
- b. If the student does not leave the area immediately, the Institutional Official will utilize the appropriate protocol defined by each Institution to receive assistance in addressing the non-compliance.
- c. The Institutional Official will report the alleged violation through the appropriate protocol defined by each Institution regarding the Student Conduct Process as defined in SDBOR Policy 3.4 and other appropriate policies. The report shall include the nature of the disruption, non-compliance and/or action(s) required to remove the student from the area.

3. The student conduct office will review the incident report, determine whether the allegations are credible, and if so, begin the appropriate conduct process for that student. The following student conduct violations may be charged based upon the facts:
  - a. 2.2: *Disruption, Obstruction, or Interference with Institutional Activities* to include 2.2.1, 2.2.2, and/or 2.2.3;
  - b. 2.4: *Threat of Harm or Actual Harm to a Person's Physical or Mental Health or Safety* to include 2.4.1;
  - c. 2.8: *Violation of Policy or Laws* to include 2.8.1.
  - d. Other policy violations as determined by the student conduct officer.
  - e. Informal resolutions may occur and any discipline, including but not limited to education, will align with severity as outlined in the code after due process.
4. In extreme cases, interim measures detailed in section 3.2 of the SDBOR Policy 3:4 may be put in place to restrict the student from University property or specific spaces until the student conduct process concludes and an outcome is rendered and appeals are afforded in accordance with SDBOR Policy 3:4. If interim measures are invoked, faculty members may be required to provide virtual options for the student to continue to participate in the course until an outcome is rendered and appeals are afforded.
5. The student will be afforded due process in accordance with SDBOR Policy 3:4.

Faculty and staff observed out of compliance with the applicable COVID-19 Face Covering Protocol shall be addressed as follows:

1. Informal Correction:
  - a. Institutional Official informs employee of their non-compliance with the protocol in effect.
  - b. An employee should request a reasonable accommodation in accordance with their applicable campus Human Resources process as soon as reasonably practical to minimize any disruption to their assigned job duties, however, in the event any employee needs to request a reasonable accommodation regarding the use of a cloth face covering when informed of their non-compliance, the employee will be immediately directed to the Human Resources Office at their respective Institution to complete the request for an accommodation.
  - c. If an employee fails to comply, the Institutional Official shall utilize the appropriate protocol defined by each Institution to report the employee non-compliance.
2. Formal Correction:
  - a. If an employee fails to promptly comply, and their non-compliance interferes with the performance of their assigned job duties and/or they refuse to immediately

leave the area, the situation will be reported via the protocol defined by each Institution to report employee non-compliance issues.

- b. Situations of employee non-compliance reported per (a) above may subject the employee to discipline or other adverse action in accordance with applicable BOR and/or Institutional policy.
- c. Employees subject to discipline or other adverse action will be afforded due process in accordance with applicable BOR and/or Institutional policy.

Visitors observed to be out of compliance with the applicable COVID-19 Face Covering Protocol shall be addressed as follows.

1. Informal Correction:
  - a. Institutional Official informs the visitor of their noncompliance with the protocol in effect.
  - b. Should the visitor promptly comply by wearing a face covering and/or leaving the area in which a face covering is required, no further action will be taken.
2. Formal Correction:
  - a. If a visitor fails to promptly comply, the Institutional Official shall utilize the appropriate protocol defined by each Institution to report the matter and receive assistance in removing the visitor from campus.
  - b. In extreme cases, additional measures may be taken pursuant to applicable BOR and/or Institutional policy to further restrict the visitor from returning to campus if the circumstances regarding their non-compliance and subsequent removal from campus so warrant.