



## Responding to the Risk of Infectious Disease in the College Community<sup>1</sup>

Infectious diseases regularly circulate at community colleges but at times an outbreak may occur that requires a college to respond. In preparation, colleges should have infectious disease response plans in place and review them annually. Community colleges should also monitor available resources to ensure that the most current guidance is followed, particularly when concerns are heightened from a spreading epidemic or an unfamiliar and potentially deadly disease.

### Table of Contents

A. Understanding Infectious Disease .....	1
B. Emergency Operations Planning.....	2
C. Board Action, Purchasing Issues, and College Closures.....	5
D. Employee Issues .....	10
E. Student Health .....	14
F. Communicating with Staff, Students, and the Media.....	15

### **A. Understanding Infectious Disease**

Public health agencies provide extensive information about the risks and preventative measures for infectious disease.

Information regarding infectious diseases can be found on the websites for the [U.S. Centers for Disease Control and Prevention](https://www.cdc.gov) (CDC) and the [Texas Department of State Health Services](https://www.dshs.texas.gov) (DSHS). The websites provide information about significant infectious diseases, including the novel coronavirus and influenza.

**Coronavirus:** Coronaviruses are regularly in circulation, causing mild illnesses such as the common cold, but at times a coronavirus emerges, such as severe acute respiratory syndrome (SARS), that is more serious. In late 2019, a novel coronavirus was discovered in China, COVID-19, that grew into a global pandemic. COVID-19 is a respiratory disease most commonly spread through droplets produced when an infected person coughs or sneezes and through close contact with people who are infected. The disease

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<sup>1</sup> An electronic version of this document is available on [TASB College eLaw](http://tasb.org/services/community-college-services/resources/tasb-college-elaw/documents/cc-responding-risk-of-infectious-disease.pdf) at [tasb.org/services/community-college-services/resources/tasb-college-elaw/documents/cc-responding-risk-of-infectious-disease.pdf](http://tasb.org/services/community-college-services/resources/tasb-college-elaw/documents/cc-responding-risk-of-infectious-disease.pdf).

has a relatively long incubation period averaging five days, but as long as 14, before an individual experiences symptoms, including dry cough, fever, shortness of breath, loss of taste and smell, fatigue, and digestive issues. Older adults and those with underlying medical conditions, such as a compromised immune system, are particularly at risk of significant complications but the entire population is vulnerable.

Experts are continuing to search for effective vaccines and treatments. In the interim, individuals should take preventive measures, such as social distancing even from those who are not showing symptoms as they may be incubating the virus. They should also avoid touching their eyes, nose, and mouth and frequently wash hands with soap and water for at least 20 seconds. For more information about the coronavirus, see the [CDC Coronavirus \(COVID-19\) website](#) and the [DSHS Coronavirus Disease 2019 \(COVID-19\) website](#).

In addition to the general coronavirus resources, federal and state agencies and accrediting bodies have published guidance specifically for community colleges and other institutions of higher education:

- Texas Higher Education Coordinating Board (THECB) [Coronavirus Update for Higher Education](#)
- U.S. Department of Education [COVID-19 \(“Coronavirus”\) Information and Resources for Schools and School Personnel](#)
- Southern Association of Colleges and Schools Commission on Colleges [Coronavirus and the Commission](#)
- [CDC Guidance for Institutes of Higher Education](#)

**Influenza:** Seasonal flu presents a significant health risk. The CDC encourages vaccination and personal hygiene practices to prevent the spread of the flu. For more information, see the [CDC Influenza \(Flu\)](#) and [Administrators of Institutions of Higher Education: Flu Prevention at Colleges and Universities websites](#) and the [DSHS Texas Influenza Surveillance Activity Reports website](#).

## **B. Emergency Operations Planning**

**Q: *Does a community college need to create a specific emergency plan to address the spread of infectious diseases?***

**A:** A community college does not need to create a new emergency plan if it has an emergency operations plan (EOP) in place. The EOP should contain information on addressing a health risk to the college community, such as an outbreak of infectious disease. Community colleges may develop a public health and medical annex as part of the EOP that outlines procedures for response to public health and medical emergency or support functions.

Each community college must adopt and implement a multihazard emergency operations plan that applies to the college's facilities. The plan must address prevention, mitigation, preparedness, response, and recovery as defined by the Texas School Safety Center, the commissioner of higher education, and the governor's office of homeland security. The plan must address: (1) employee emergency response training; (2) employee access to electronic communication devices in the classrooms that allow for immediate contact with emergency services; (3) the adequacy of college communications technology and infrastructure for emergency communications; (4) coordination with local emergency management agencies, law enforcement, and fire departments and state and local health agencies during an emergency; and (5) the implementation of a safety and security audit. Tex. Educ. Code § 37.108(a); see TASB Policy CGC(LEGAL).

Federal law requires a college to include in its emergency response and evacuation procedures methods for notifying the campus community about a confirmed significant emergency or dangerous situation involving an immediate threat to the health and safety of employees and students on campus, as defined by 20 U.S.C. § 1092(f)(6). See *Communicating with Staff, Students, and the Media*, below, for state requirements addressing the emergency alert system. The college is not required to send the alert if it will compromise emergency response. The emergency response and evacuation procedures must also address the annual publication of the procedures to employees and students and the annual testing of the procedures. 20 U.S.C. § 1092(f)(1)(J).

The CDC recommends that a community college's EOP include methods to reduce the spread of a variety of infectious diseases, such as everyday preventative actions for students and staff, social distancing, and campus closure. The EOP should address the services that may be interrupted in the event of a campus closure, such as distance education and housing and meal services. U.S. Ctrs for Disease Control and Prevention, [FAQs for Administrators](#).

**Q: *Should a community college contact local health officials when there is a concern regarding the spread of infectious disease in the college community?***

A: As described above, a community college's EOP must have measures in place for coordinating with state and local government agencies in the event of an emergency. Tex. Educ. Code § 37.108(a). Community colleges must also coordinate with the Federal Emergency Management Agency (FEMA) in accordance with FEMA guidelines. For more information, see the [FEMA National Incident Management System website](#).

Further, if community college administrators or other employees listed under Texas Health and Safety Code section 81.042 are made aware of suspected reportable conditions, they must report these conditions to their local or regional health department or DSHS. If the report is made to the local or regional health department,

it will report the data to DSHS. Tex. Health and Safety Code §§ 81.041-.042; 25 Tex. Admin. Code §§ 97.2(d), .5(a), .132. DSHS will then report to the CDC, if appropriate. For a list of reportable diseases, visit the DSHS Infectious Disease Control Unit [Notifiable Conditions website](#). To locate your community college's local health department, visit the [DSHS Public Health Regions website](#).

Typically, in instances of a documented outbreak, the local health department is working in conjunction with the CDC to identify affected individuals and implement a care and isolation plan for the identified individuals. The local health department or the CDC may contact the community college to inform them of this information and the identity of the student or the employee under observation.

Depending on the circumstances, the community college may be asked to identify other students or staff who came in close contact or proximity with the individual under observation. The CDC or local health department may require the college to close certain campuses or portions of the college depending on the nature of the disease and risk of infection.

**Q: *What steps should a community college take to disinfect or sanitize college buildings and vehicles?***

**A:** The degree of disinfection and sterilization appropriate on community college campuses and vehicles depends on whether a community college experienced a documented case of exposure to an infectious disease. In the absence of a documented case of active infection on college property, community colleges may determine that regular cleaning and disinfecting protocols are adequate, with additional directed cleaning as a preventative measure. Cleaning can be accomplished through the community college's regular janitorial staff wearing routine protective gear such as dust masks, gloves, and eye goggles. A community college may consider using a cleaning service or additional staff, as needed.

If a community college were to experience a documented case of a deadly disease on college property, such as active infection of COVID-19, the community college should work with local health officials and the CDC to determine a more intensive disinfecting and sterilizing process. This may involve using a professional cleaning company equipped with medical grade cleaning supplies and personal protective equipment.

The CDC has released [environmental cleaning and disinfecting](#) recommendations in response to COVID-19.

### **C. Board Action, Purchasing Issues, and College Closures**

**Q: *Can a community college board meet to discuss the emergency or address other issues surrounding the potential spread of infectious disease?***

A: An emergency meeting may be held or an emergency item added to a meeting agenda if immediate action is required due to an imminent threat to public health and safety or a reasonably unforeseeable situation. The community college must post notice of an emergency meeting or an emergency addition to an existing agenda no less than one hour before the scheduled time of the meeting. The notice of the emergency meeting or the additional agenda item must clearly identify the emergency or urgent public necessity justifying the short notice. Tex. Gov't Code § 551.045. See TASB Policy BD(LEGAL).

Note, an emergency meeting may be held under the Texas Open Meetings Act (OMA) only if the board needs to take immediate action to address an emergency. Periodic briefings to update the board on steps the community college is taking to address concerns may be accomplished without a meeting through informational e-mails or phone calls from the college chief executive officer (CEO) or designee to each trustee. Consult your college attorney before relying on the emergency exception.

**Q: *May a community college hold a board meeting by telephone conference call if a quorum of the board cannot gather at one location?***

A: A community college board of trustees may hold a special meeting by telephone conference call if immediate action must be taken and convening a quorum at one location is difficult or impossible. The notice must specify as the meeting location the location where board meetings are usually held. The open portion of the meeting must be audible to the public in the posted location and broadcast online. Each part of the open meeting must be recorded and posted on the college's public website in an online archive. Tex. Gov't Code § 551.121.

**Q: *What other OMA exceptions apply in the event of an emergency?***

A: The Texas Attorney General may suspend OMA requirements in the event of a pandemic. For example, the attorney general suspended the OMA posting, public comment, and other requirements temporarily during the COVID-19 pandemic. For more information, see TASB Community College Services' [Texas Governor Suspends Certain Provisions of Open Meetings Act Due to Coronavirus \(COVID-19\)](#).

**Q: *May a board act absent a quorum in an emergency or disaster?***

A: A board may act absent a quorum if: (1) the community college's jurisdiction is located, at least in part, in an area declared a disaster by the president of the United States or the governor; and (2) a majority of the board is unable to attend due to the disaster. Tex. Gov't Code § 418.1102. An epidemic or pandemic may result in a disaster declaration.

**Q: *Do the competitive procurement requirements apply to college purchases made in response to an emergency?***

A: State law provides an emergency exception to the general requirement that goods and services valued at \$50,000 or more in the aggregate over a 12-month period be competitively procured in accordance with Texas Education Code section 44.031. A community college board of trustees is not required to use a statutory purchasing method to repair or replace destroyed or severely damaged equipment, facilities, or personal property if the board determines that the delay arising from following those procedures would prevent or substantially impair the conduct of classes or other essential college activities. Tex. Educ. Code § 44.031(a), (h). See TASB Policies CF and CM. The board may instead employ the contracting method that is best suited to the college's needs.

**Q: *May a board delegate contracting authority in an emergency?***

A: The community college should first reference policy to determine existing delegation of purchasing authority. Board policies CF(LOCAL) and CM(LOCAL) define the scope and limitations on purchasing authority that a board has delegated to the college CEO or designee. Many colleges limit the delegated purchasing authority to a certain amount, including amounts less than \$50,000. Consequently, even if competitive procurement is not required because the amount is less than \$50,000 or an emergency exception applies, board approval of a contract for purchase of goods or services may still be required by a college's local policy.

The board may also make a special delegation of purchasing authority if an emergency affects the college. In such an event, the board may delegate to the college CEO or other designated person the authority to contract for the emergency replacement, construction, or repair of college equipment or facilities if necessary for the health and safety of students and staff. Tex. Educ. Code § 44.0312(c).

When entering into contracts for emergency goods and services, colleges should exercise the usual due diligence, including legal review of contracts, before signing binding agreements. Contracts with unfavorable terms entered in haste may still be enforced to a college's detriment. Written contracts for emergency goods and services should be entered into only after review and approval by the college's attorney.

**Q: *May a community college qualify for federal disaster relief?***

A: The Federal Emergency Management Agency (FEMA) provides resources and prepares grants to assist with recovery from the effects of emergencies. A community college subject to an epidemic or pandemic may be eligible for federal funds if it is located in a jurisdiction included in the presidential disaster declaration.

To be eligible for FEMA reimbursement, community college purchases must comply with federal procurement laws. While a community college board may take action to suspend state procurement requirements under the emergency exception discussed above, such action does not necessarily result in a corresponding exception to the federal procurement rules. Federal law may be more stringent than state law with regard to procurement and emergency exceptions. Consequently, if a community college plans to file a FEMA claim for reimbursement, the college should work with FEMA and the college's attorney to competitively procure purchases in a manner that is compliant with 2 C.F.R. §§ 200.317-.326.

THECB has provided information specific to FEMA reimbursement for expenditures related to the COVID-19 pandemic on its [Frequently Asked Questions \(FAQs\) website](#).

**Q: *Who in the community college has the authority to close a campus or all campuses temporarily?***

A: A community college CEO has the authority to close the college on a temporary basis. No board action is required.

The decision to close college campuses should be made if the CDC, DSHS, or the local health department advises the community college to close all or some college campuses to prevent spread of an infectious disease. A community college should exercise caution in deciding on its own to close college campuses without concrete information that an infectious disease has affected the college community. When concerns are identified and communicated broadly through news media and health agencies, closing campuses may cause a high level of concern about infection when no risk exists locally.

As part of the closure decision, the community college should consider if the order includes the college's residence halls. If the college closes the residence halls, the college may provide alternative arrangements for students who do not have a safe housing alternative. The college should also consider methods to continue important student services, such as food pantries and counseling services.

If the community college temporarily closes, college staff or a professional cleaning company should disinfect and sanitize the facilities as described above.

For more information on personnel issues during college closures, see TASB Community College Services' [Personnel Issues During Disasters, Emergencies, and College Closings](#).

**Q: *If a community college temporarily closes, must the college adjust its course schedule?***

A: If a community college cancels more than three contact hours, the college must provide students ample supplemental materials and assignments or schedule make-up classes. The college may also opt to extend the academic calendar to accommodate the needed instruction. Colleges are normally required to adhere to the common calendar but in the event of an epidemic or pandemic, the commissioner of higher education may waive the requirement. 19 Tex. Admin. Code § 4.5(a)-(b).

**Q: *May a community college close its facilities and transition instruction to distance education?***

A: Instead of ceasing all college operations to prevent the spread of disease, a community college CEO may close the college facilities in consultation with health officials and transition instruction to distance education.

To prepare for the possibility and to facilitate a rapid transition in the event of a closure, the college should address the transition to distance education in the event of an emergency in its EOP. When developing a plan to transition to distance education, a community college should ensure that the appropriate infrastructure is in place and any necessary technical support available, including the selected learning management systems for the presentation of live or prerecorded content and methods to communicate with students during instruction.

The plan should address supports for faculty, particularly those who do not have experience in distance education. For example, the college may provide webinars, recorded tutorials, and other resources on how to best structure a course for distance education, such as how to effectively present the course and assess students, or how to use the selected learning-management system.

As the change in modalities can be a significant shift for students, especially those with little distance learning experience, the community college should provide adequate support for students. For example, the plan should address the provision of technology for students who do not have a computer or internet access. The plan should address the accessibility of course materials and other resources and methods appropriate to the modality for faculty to give students feedback. The plan should also provide for online counseling.

A community college may find it difficult to transition some courses, such as laboratory classes to distance education due to the course content. Some courses may be required by a regulatory body to be taught in-person. If the facility closure is relatively brief, the college may find it can provide sufficient make-up classes prior to the end of the semester. However, in some instances, the college may find it needs to cancel the course. If so, the college should consider how to accommodate the students, such as by providing the opportunity to enroll in a short-term course at the next semester.

To facilitate the rapid and successful transition to distance learning during the COVID-19 pandemic, THECB has recommended a resource published by The Chronicle of Higher Education, [Moving Online Now](#).

**Q: *If a community college chooses to provide its courses through distance education during a closure, may a student drop a course?***

A: The change from in-person instruction to distance education midsemester may prompt a student to drop a course because the student has not historically performed well in distance education courses or for another legitimate reason. A community college may not permit a student to drop more than six courses unless the reason is expressly permitted by law, including that the student shows good cause to do so. *Good cause* is defined to include situations where a disaster declaration issued by the governor results in a limitation or outright ban on in-person class attendance for a length of time that significantly affects the student's ability to participate in coursework, as determined by the community college after considering the length of time the course was subject to the limitation or ban, the course type, and the personal circumstances of the students affected. What constitutes good cause may also be determined by the college in accordance with college policies and procedures. Tex. Educ. Code § 51.907(e); 19 Tex. Admin. Code § 4.9(a), (d). See TASB Policy ECC. Therefore, to the extent the good cause definition in law does not address a particular situation, the college may expand the definition to permit the student to drop the course without penalty consistent with policy.

In addition, a community college is prohibited from counting toward the course drop limit calculation a course dropped during the 2020 spring semester or summer term or the 2020-2021 academic year due to a limit or prohibition on in-person class attendance based on the COVID-19 pandemic. Tex. Educ. Code § 51.907(e-2)

**Q: *If a student is permitted to drop a course or withdraws, must the college refund the student's tuition?***

A: The community college must refund at a minimum a percentage of the student's tuition in accordance with the refund schedule set in THECB regulations. 19 Tex. Admin. Code § 21.5.

#### **D. Employee Issues**

**Q: *May a community college screen applicants and new employees for potential infection with a contagious disease?***

A: A community college may not make medical inquiries of applicants but may make reasonable inquiries of individuals who have been offered employment. Any such inquiries must comply with the Americans with Disabilities Act (ADA). See TASB Policy DBB.

**Applicants:** An employer may not make medical inquiries of job applicants unless and until an offer of employment has been made. 42 U.S.C. § 12112(d)(2)(A). A community college may not ask an applicant about the applicant's medical condition, even if the applicant is a citizen of a country that is the source of a contagious disease. Similarly, a community college may not inquire about recent travel activities or about the citizenship of members of an applicant's household. In addition to potential ADA violations, a community college that makes such inquiries risks claims of national origin and race discrimination.

**New employees:** The community college may make reasonable health inquiries after it has extended an offer of employment to the applicant. The ADA permits employers to make medical inquiries if all entering employees in the same job category are subject to the same inquiries and examinations. 42 U.S.C. § 12112(d)(3)(A); 29 C.F.R. § 1630.14(b). Thus, for example, a college may require all new hires to complete a questionnaire about recent travel or possible exposure to an infectious disease.

If a community college determines that a new hire is at risk of developing an infectious disease, the college may not withdraw the offer of employment unless the college also determines that the new hire poses a direct threat to the health or safety of the new employee or others as discussed below. U.S. Equal Employment Opportunity Comm., [\*Pandemic Preparedness in the Workplace and the Americans with Disabilities Act\*](#). In addition, the community college must determine whether the direct threat could be eliminated through reasonable accommodation. In the context of a contagious disease, reasonable accommodation may include providing leave, or delaying an employee's start date, until the completion of an incubation or quarantine period.

**Q: *May a community college ask a current employee if the employee has been exposed to or has an infectious disease?***

A: The analysis depends on whether the inquiry is disability-related or not. An employer may make inquiries that are targeted at identifying current employees who may have been exposed to an infectious disease if the inquiry is unlikely to elicit information about a disability. For example, an employer may ask a question about common cold

or seasonal flu symptoms as that inquiry is unlikely to elicit information about a disability. U.S. Equal Employment Opportunity Comm., [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#).

However, disability-related inquiries, such as an inquiry into whether an employee has a compromised immune system or has cancer or another illness associated with a compromised immune system, are subject to the ADA. An employer may only make a disability-related inquiry if the employer satisfies the conditions described below for medical examinations. U.S. Equal Employment Opportunity Comm., [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#).

Note, U.S. Equal Employment Opportunity Commission (EEOC) guidance states that an inquiry is not disability-related if, in the event of a pandemic, the employer asks if an employee has traveled to a location subject to a CDC or state or local public health officials' recommendation that visitors remain at home until clear they do not have symptoms of a contagious disease. U.S. Equal Employment Opportunity Comm., [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#).

**Q: *May a community college require a current employee to submit to a medical examination for an infectious disease?***

A: An employer may require a current employee to submit to a medical examination if the request is job-related and consistent with business necessity, meaning the employer has a reasonable belief that an employee's ability to perform essential job functions will be impaired by, or an employee will pose a direct threat due to, a medical condition. The employer's reasonable belief must be based on objective evidence obtained by, or that is reasonably available to, the employer prior to requiring a medical examination. 42 U.S.C. § 12112(d); U.S. Equal Employment Opportunity Comm., [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#). Colleges that have adopted TASB Community College Services' model language at policy DBB(LOCAL) authorize the college chief executive officer (CEO) or designee to require employees to submit to medical examinations that are job-related and consistent with business necessity.

**Q: *How may a community college determine whether an employee poses a direct threat with respect to an infectious disease?***

A: A *direct threat* is a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. In the context of an infectious disease, the employer should consider the severity of the illness and evidence that the specific employee may pose a risk of contagion. 42 U.S.C. § 12111(3); U.S. Equal Employment Opportunity Comm., [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#).

The assessment of whether an employee poses a direct threat must be based on objective, medical evidence, not on stereotypes, generalizations, or fears about a specific disability or disabilities or about members of specific racial, ethnic, or other protected groups. The EEOC has identified four factors to consider when determining whether an employee poses a direct threat: (1) the duration of the risk; (2) the nature and severity of the potential harm; (3) the likelihood that potential harm will occur; and (4) the imminence of the potential harm. 29 C.F.R. § 1630.2(r); U.S. Equal Employment Opportunity Comm., [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#).

The EEOC has stated that, during a pandemic, employers should rely on the latest information from the CDC and state or local public health authorities that is appropriate for the employer's location when assessing conditions in their workplaces. U.S. Equal Employment Opportunity Comm., [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#).

**Q: *May a community college require an employee suspected of having an infectious disease to stay home?***

A: Yes, if the employee poses a direct threat, as described above. If a community college determines that an employee poses a direct threat, the college should first solicit voluntary exclusion. If an employee refuses to remain home, the college may consider involuntary exclusion based on a determination that an employee poses a direct threat to the health or safety of the employee or others in the workplace. 42 U.S.C. § 12111(3); 29 C.F.R. § 1630.2(r).

Community colleges should work with their local health departments and other qualified medical personnel in determining whether an individual should be asked to stay home. The college should also consult its attorney before imposing an involuntary exclusion. In addition, the community college may consider providing additional leave if the college requests that an employee stay home from work as a precautionary measure.

**Q: *If a community college requires an employee to stay home, may the college require the employee to use accrued leave?***

A: Yes, but only if the employee is verifiably sick. The community college may apply its usual policies and practices relating to college-initiated exclusions. Colleges that have adopted TASB Community College Services' model language at policy DBB(LOCAL) allow an employee to be placed on paid administrative leave while awaiting results of a medical examination. If the results are that the employee has an infectious disease, the community college has a legal basis for requiring the employee to use accrued leave. If the exclusion is merely precautionary, however, the college should consider maintaining the employee on paid administrative leave. Through a board-approved

resolution, a community college can establish additional leave for employees who decide to stay home voluntarily or if the community college requests that the employee stay home. For more information see TASB Community College Services' [Personnel Issues During Disasters, Emergencies, and College Closings](#).

**Q: *May a community college discipline employees who refuse to come to work because of a concern about contracting an infectious disease?***

A: Generally, a community college may discipline an employee who refuses to come to work if the college remains open, unless the employee is eligible for leave. However, the ADA requires a community college to reasonably accommodate physical and mental impairments. 29 U.S.C. 794, 42 U.S.C. 12112(b)(5); 29 C.F.R. 1630.2(o)(4), .9, 34 C.F.R. 104.11. Some employees may have physical conditions that preclude them from risking exposure to a contagious disease. Similarly, an employee may have extreme anxiety or another mental impairment associated with fear of exposure to contagions. Therefore, a community college may be required to excuse an employee from work as a reasonable accommodation due to a mental or physical impairment associated with an infectious disease even if the employee has no available paid leave.

**Q: *Do community colleges have a responsibility to protect employees from harassment related to an infectious disease?***

A: Yes. Community colleges have a legal obligation to protect an employee from workplace harassment based on the employee's medical condition or the employee's race or ethnicity. An employee who has been exposed to an infectious disease, or whose family member has been exposed to a disease or who has become sick, may be targeted by co-workers for harassment or exclusion upon return to work. Similarly, co-workers may target an employee who is a member of a racial or ethnic group associated with a particular infectious disease.

A community college must take steps to protect these employees from harassment. For example, in communications related to an infectious disease, the college should remind the college community of the prohibitions on harassment and the policies and procedures for reporting harassment, including policy DIAB(LOCAL). If a harassment complaint is submitted, the college should take the complaint seriously and conduct a prompt investigation, while taking any necessary steps to protect the complainant from future harassment.

**Q: *If an employee is exposed to an infectious disease in the course and scope of employment, is the employee eligible for workers' compensation benefits?***

A: Several factors will determine whether an employee is eligible for workers' compensation benefits due to a work-related exposure to an infectious disease. These factors include the type of disease, the circumstances underlying the exposure,

the employee's usual job duties, and the carrier's policies. Community colleges should contact their workers' compensation carrier with questions regarding benefits.

## **E. Student Health**

**Q: *May a community college ask a student if the student has traveled to locations affected by, or of the if the student has been exposed to, an infectious disease?***

A: A community college may make inquiries of students to determine the likelihood of exposure to an infectious disease if, in coordination with local health officials, the college determines such screenings or questions are appropriate. A general questionnaire may be sent to all students or to a group of students selected based on reasonable, nondiscriminatory factors. The college may not use a person's race, ethnicity, or national origin to determine which students will be asked to complete a questionnaire or risk a claim of discrimination under federal or state law.

**Q: *May a community college conduct a health screening of a student exhibiting symptoms of infectious disease?***

A: Community college personnel may refer a student to college healthcare professionals when a student complains of feeling ill. Community colleges should have protocol in place for the staff members to follow when determining whether a student has an infectious disease and poses a risk of infection. In certain cases, the student should be referred to the student's medical professional or the local health department may issue screening protocol.

The American College Health Association has issued [Guidelines for Preparing for COVID-19](#).

**Q: *When should a student stay home?***

A: Generally, if a student has been experiencing symptoms of an infectious disease, the student should stay home until the student is symptom free and/or cleared by a medical professional to return to the community college. However, in some instances, the student may be required by state or local officials to stay home until the student is cleared by the local health department as safe to return to the college environment. If applicable, the college, in consultation with the local health department, should have a plan in place for accommodating resident hall students required to isolate.

**Q: *If a local health authority has requested information about students in response to an investigation into the spread of an infectious disease, is the community college required to comply?***

**A:** A community college should provide requested information to local or state health authorities if the request is to protect the health and safety of the student or others.

The federal Family Educational Rights and Privacy Act (FERPA) generally prohibits the release of personally identifiable student information contained in education records unless the student authorizes the release of such information or an exception to this requirement exists. One such exception exists for health and safety emergencies. In the event of an emergency, FERPA permits a community college to disclose information from a student's education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. In determining whether the exception applies, the college may take into account the totality of the circumstances pertaining to the health or safety threat. The college must address in the student's education records the articulable and significant threat that formed the basis for the disclosure and the parties to whom information was disclosed. 20 U.S.C. § 1232g; 34 C.F.R § 99.31-.32, .36.

#### **F. Communicating with Staff, Students, and the Media**

**Q: *What can a community college communicate to students and staff prior to an infectious disease outbreak?***

**A:** Community colleges should provide information to students and personnel about the facts regarding infectious disease. Clear factual communications can calm unsubstantiated fears and rumors that commonly arise at the onset of an outbreak. Providing facts about infectious diseases from verifiable sources can provide the college community with confidence that college facilities and transportation are safe for students and staff.

Community colleges should use communication strategies that meet their needs, maintain their mission, and comply with privacy laws. Community colleges may reference materials from federal, state, and local health authorities for communication strategies and additional resources. In addition, college communications should emphasize how all members of the college community can help stop the spread of a disease through personal responsibility, including hand washing, covering coughs or sneezes, getting immediate medical attention if symptoms develop, and avoiding contact with other people if necessary. Emphasize that staff and students are asked to stay home if they are exhibiting symptoms. Remind students and staff about college procedures for documenting an excused absence for illness.

Finally, a community college should ask that students and staff inform the college about any personal contact they have with the CDC, DSHS, or local health department about the risk of exposure. Outreach from public health officials is typically to affected individuals and the local health department; as a result, colleges may receive this information second hand. If the college learns of a concern for a local individual, the college should follow up by contacting the local health department or CDC, as described above at Emergency Operations Planning.

**Q: *How must a community college notify the college community if an outbreak occurs?***

A: An occurrence of infectious disease may become an outbreak or otherwise be deemed an emergency requiring that the community college notify the college community. Federal law requires a community college to include in its emergency response and evacuation procedures methods for notifying the campus community about a confirmed significant emergency or dangerous situation involving an immediate threat to the health and safety of employees and students on campus, as defined by 20 U.S.C. § 1092(f)(6).

State law also addresses emergency communications. Each community college must establish a system to timely alert students and employees by phone or email, and any other communication method the college deems appropriate, if an emergency occurs. When a student first registers or enrolls or an employee first begins work, the college must collect the person's phone number or email and register them for the emergency alert system. A student or employee may choose not to participate in the alert system. The election must be renewed in writing or electronically, as chosen by the college, at the beginning of each academic year. Tex. Educ. Code §§ 51.217(g), .218.

**Q: *What approach should a community college adopt in responding to the media in the event of an infectious disease outbreak?***

A: In addition to existing protocols for responding to the press and the public, publicity regarding a health scare may require additional steps by the community college to both effectively communicate with the community and maintain security and order at college facilities.

A community college that is experiencing an infectious disease outbreak may find it necessary to increase security and create a perimeter around college facilities. Media outlets may want access to college buildings to film background footage of campus buildings and students passing by. The college may choose to work with the media to provide access to this type of footage without disrupting college operations. Similarly, media may seek interviews with a variety of college personnel. To the extent the college can make appropriate personnel available at regular intervals for interviews, the college may gain an additional means of communicating its message.

For more information on community college law topics,  
visit TASB Community College eLaw online at [colleges.tasb.org/elaw](https://colleges.tasb.org/elaw).

*This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is neither an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. It is important for the recipient to consult with the college's own attorney in order to apply these legal principles to specific fact situations.*

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