

# NORRIS, MURRAY & PELOQUIN, LLC

Legal Counsel to Employers and Schools

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## CAPACITY LIMITS

Effective February 8, the temporary rollback of capacity limits to 25% is lifted. Close contact personal services and restaurants may now operate at a 40% capacity limit. Gathering limits remain 10 indoors and 25 outdoors.



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## Ethics Committee Warning Re: COVID-19 Vaccinations

The State Ethics Commission released guidance dated February 5, 2021, reminding all state, county and municipal employees that using their official positions to gain unwarranted early access to COVID-19 vaccinations—whether for themselves or others—may violate the conflict of interest law. Violations could result in civil prosecution and penalties up to \$10,000.

Under Massachusetts' conflict of interest law, public employees are prohibited from using one's official position or public resources to obtain a valuable benefit they are not properly entitled to. According to the Ethics Commission, the current conditions in Massachusetts regarding the availability of the COVID-19 vaccines make it a valuable benefit. As a result, "public employees are prohibited by law from using their official titles or the status, power or resources of their official positions to have themselves, their family members or others improperly moved ahead in line to receive COVID-19 vaccinations earlier than they would under the Commonwealth's vaccine distribution plan."

## DESE Updates Reopening Transportation Guidance

Citing the availability of updated data and consultation with medical advisors, the Massachusetts Department of Elementary and Secondary Education (DESE) has updated its Reopening Transportation Guidance to eliminate physical distancing requirements and capacity limitations for elementary schools across the board, and for middle and high school students except in districts with high community prevalence. For middle and high schools in districts where there is high community prevalence, capacity and physical distancing requirements on buses has been amended to allow 2 students per bench. According to the guidance, the differentiation between elementary and middle/high schools is based on continuing evidence that younger students are less likely to become infected with COVID-19 and may be less likely to transmit the virus as well.

The Guidance is clear that DESE's updated standards are appropriate only when used in conjunction with other required mitigation measures including the ongoing requirement that all students and staff members wear masks at all times regardless of age, and that the windows on the buses remain open (at least 2 inches) to allow for ventilation. This includes during adverse weather conditions and districts are encouraged to develop plans for dealing with these situations. In addition, DESE continues to recommend the use of seat assignments and bus monitors to ensure enforcement of health and safety guidelines. In addition, students are still expected to face forward at all times and avoid eating, shouting, singing or sharing items while on the bus.