

**General decree
to regulate the operation of day care facilities and schools in the context of the
fight against the SARS-CoV-2 pandemic**

Announcement from the Sachsen Ministry for Social Affairs and Social Cohesion

of 14 July 2020, file no. 15-5422/4

On basis of § 28 (1) Sentence 1 of the Infection Protection Act from 20 July 2000 (BGBl I p 1045), which was last amended by Article 3 of the law from 27 March 2020 (BGBl I p 587), the Sachsen Ministry for Social Affairs and Social Cohesion in coordination with the Sachsen Ministry for Culture issues the following

general decree:

1. Subject matter of the general decree

- 1.1. ¹ This general decree regulates the operation of publicly and privately funded schools, day-care facilities (crèches, kindergartens, after-school care and curative day-care centres) and day-care centres in the Free State of Sachsen in response to the pandemic caused by the novel coronavirus SARS-CoV-2. ²These facilities are operated within the framework and in accordance with the following provisions.
- 1.2. The general provisions of the Infection Protection Act and the Regulation of the Sachsen Ministry of Social Affairs and Social Cohesion for protection against coronavirus SARS-CoV-2 and COVID-19 (Corona Protection Regulation) of 14 July 2020, according to which a regional closure of children's facilities and schools is possible, remain unaffected.

2. General access, notification and hygiene provisions

- 2.1. Access to facilities as defined in 1.1 is not permitted to persons if they
 - 2.1.1. are proven to be infected with SARS-CoV-2,
 - 2.1.2. shows symptoms that indicate SARS-CoV-2 infection, or
 - 2.1.3. have had contact within the past 14 days with a person who has been proven to be infected with SARS-CoV-2 within the meaning of the Infection Protection Act, unless this contact was unavoidable for professional reasons and took place while observing the protective measures typical of the profession.
- 2.2. ¹Persons with an illness whose symptoms are similar to that of a SARS-CoV-2 infection

must prove of the harmlessness of these symptoms by presenting a medical certificate or other medical document. ²Point 2.1.2. does not apply if a verification of harmlessness is submitted.

- 2.3. Pedagogical specialists, teachers and other persons only temporarily employed or working at a school or facility, in particular within the framework of a special educational opportunity, who show symptoms of a SARS-CoV-2 infection and are not pre-diseased in the sense of Point 2.2 shall report this immediately to the management of the school or institution at which they work and shall let themselves be tested for SARS-CoV-2.
- 2.4. Persons employed at or working on the premises of a facility referred to under 1.1, pupils that are legal adults and guardians of underage children trained or cared for in such a facility are obliged to immediately inform the management of this facility if they or the child being trained or cared for in the facility is proven to be infected with SARS-CoV-2.
- 2.5. ¹In the case of infections caused by SARS-CoV-2, the responsible health authority shall determine quarantine measures for the infected person and persons with whom they have come into contact, including their readmission, in accordance with the Infection Protection Act. ²If children experience symptoms as defined in Section 2.1.2, access to the facility is only granted after proof of medical clearance or only two days after the last appearance of symptoms. ³The provisions of the Infection Protection Act remain unaffected.
- 2.6. ¹Should a person seeking to enter or stay in a facility referred to in Point 1.1 show symptoms as defined in Point 2.1.2, they may be refused access to the facility or be expelled from it. ²School or daycare children who show symptoms during class or another school event, in particular a special educational opportunity, or during the care period, should be accommodated in a separate room; collection by a custodian or an authorised person must be immediately arranged. ³The supervision duties continue until the child is picked up.
- 2.7. ¹Whosoever enters a facility as defined in Point 1.1 must promptly and thoroughly wash or disinfect their hands. ²The facility shall ensure that suitable installations for washing hands and disinfecting are accessible. ³The person responsible for the facility shall ensure that the necessary hygienic supplies, in particular hand cleaning and disinfecting agents, can be kept in sufficient quantity. ⁴Persons staying in the facility must be notified to comply with these hygiene measures in a suitable and age-appropriate manner. ⁵In particular, appropriate notices must be displayed in the entrance area of a facility.
- 2.8. ¹Regularly used surfaces, objects and rooms must be thoroughly cleaned every day, and rooms must be ventilated several times a day. ²Technical-media equipment whose operation requires direct physical contact should not be used by several persons at the same time. ³They must be cleaned thoroughly after each use.

- 2.9. The “General hygiene plan in accordance with § 36 of the Infection Protection Act for schools and other educational institutions in which children and adolescents are looked after” is in schools and the “General hygiene plan in accordance with § 36 Infection Protection Act for children's facilities (crèches, nurseries, daycare centres, also integrative, and day nurseries)” must be observed and implemented in daycare facilities.

3. Regulations for school operations

- 3.1. ¹School events in compliance with the general hygiene regulations and in accordance with the following regulations are permitted. ²School events include in particular lessons, special educational opportunities, exams, consultations, parents' evenings, discussions with parents, conferences and committee meetings on basic school matters and the preparatory week as well as events for the admission of school beginners on 29 August 2020.
- 3.2. ¹Outsiders to the school are allowed to enter the school premises with the approval of the school management. ²They are obligated to wear a mouth and nose covering while on the school premises. ³ If there is an important pedagogical reason, in particular if the outsider to the school performs special educational tasks, especially within the framework of a special educational opportunity, the obligation according to Sentence 2, conditional upon Point 3.3 Sentence 3, is waived for the entire school premises.
- 3.3. ¹Teachers, pupils and outsiders to the school as defined in 3.2 Sentence 3 are obligated to carry a mouth and nose covering while on the school premises. ²There is no obligation to wear such a covering in the lesson room or classroom, unless the instructor or group leader orders wearing of it for important reasons. Obligating in particular persons who provide a special educational opportunity is justified. ³The school management can order that a mouth and nose covering be worn outside the classrooms.
- 3.4. In order to ensure the traceability of possible infection chains, it is to be documented in a suitable manner on a daily basis which people from outside the school have been in a school building for more than fifteen minutes during school hours or a school event.
- 3.5. The management of clinic and hospital schools can, with the agreement of the management of the clinic, provide students with individual lessons or special educational opportunities, taking into account the health situation of the students and ensuring protection against infection.
- 3.6. Oral supplementary examinations for the acquisition of the Graecum, Hebraicum and Latinum for examinees at Technische Universität Dresden and Universität Leipzig can be conducted at these institutions.
- 3.7. ¹Boarding schools in accordance with § 2 (1) of the Sachsen Student Accommodation Services Regulation (SächsSchulULeistVO) can begin regular operation starting on 18 July 2020. ²The general hygiene plan in accordance with § 36 of the Infection Protection Act for schools and other educational institutions in which children and young people are cared for, is to be observed and implemented.

4. Regulations on special needs diagnostics and reading-writing disorder (LRS) diagnostics

- 4.1. ¹Special educational diagnostics as part of the procedure for determining special educational needs in accordance with §§ 13 and 15 of the School regulation for special schools can be carried out at special schools and elementary schools, including the support committees, with the consent of the custodian. ²The same applies for children who are to be enrolled in the 2020/2021 school year.
- 4.2. Diagnostics that are still open within the LRS assessment procedures at the LRS base schools can be completed.

5. Regulations for the operation of daycare centres and childcare

- 5.1. ¹Daycare facilities for children within the meaning of Point 1.1 and childcare shall be carried out in accordance with the respective educational concept in compliance with the general hygiene regulations and in accordance with the following regulations. ²Parents' evenings, discussions with parents, counselling from specialists, medical and dental examinations or preventive health care opportunities as well as other events that correspond to the educational concept of the respective institution are permitted. ³A sufficient distance must be maintained between adult persons on the grounds of the facility.
- 5.2. ¹ Legal custodians or those authorised by them are obliged to declare to the facility in writing every day before entering the care facility that neither their child nor a member of their household shows symptoms that indicate SARS-CoV-2 infection. ²For this, the "Gesundheitsbestätigung" (health confirmation) form should be used. ³If this is not presented, the child will not be received by the daycare that day. ⁴After inspection, the form shall remain with the person who presented it.
- 5.3. ¹Non-institutional persons, in particular parents, legal custodians or other persons authorised to bring or collect the child, are permitted to enter the institution. ²They are obligated to wear a nose and mouth covering during the stay at the facility and to keep a sufficient distance from other people.
- 5.4. Events at the facility in compliance with the general hygiene regulations and with a sufficient distance between those involved on the site are permitted with the consent of the management of the facility.
- 5.5. ¹It must be documented daily which children were looked after in the facility and who was entrusted with the care. ²It must also be documented if an outsider to the facility stays in a facility building for more than fifteen minutes. ³The documentation must be done in such a way that any infection chains that occur can be followed and infected persons who are or were in direct contact with the facility in the aforementioned sense can be identified.

6. Effectuality of the general decree

This general decree will take effect on 18 July 2020 and go out of effect at the end of 30 August 2020.

Attachments:

- Formular zur Gesundheitsbestätigung (health confirmation form)

Legal appeal instructions

An action against this general order can be filed within one month of its notification at the locally responsible Sachsen Administrative Court in writing, for the minutes of the clerk of the court's office or electronically in a form approved for the replacement of the written form. It is not possible to file a lawsuit with a simple email.

If a complaint is filed in a permissible electronic form, the electronic document must either be provided with a qualified electronic signature of the person responsible or be signed by the person responsible and submitted using a secure means of transmission in accordance with § 55a (4) of the Verwaltungsgerichtsordnung (Administrative Court Regulations). Further requirements for the transmission of the electronic document can be found in Chapter 2 of the Regulation on the technical framework of electronic legal transactions and on the special electronic mailbox for authorities (Elektronischer-Rechtsverkehr-Verordnung - ERVV).

The local court is the administrative court in the Free State of Sachsen, in whose district the plaintiff is habitually resided or domiciled. The Dresden Administrative Court has local jurisdiction for plaintiffs without habitual residence or domicile in the Free State of Sachsen. The locally responsible administrative courts are the *Administrative Court Chemnitz, Zwickauer Straße 56, 09112 Chemnitz*; the *Administrative Court Dresden, Hans-Oster-Straße 4, 01099 Dresden*; and the *Administrative Court Leipzig, Rathenaustraße 40, 04179 Leipzig*.

The lawsuit must identify the plaintiff, the defendant (Free State of Sachsen) and the subject of the claim, and should contain a specific request. The facts and evidence on which the reasons are based are to be stated, and a transcript of the contested general decree is to be enclosed. The application and all pleadings shall be accompanied by copies for the other parties.

We would like to point out that objection proceedings against general decrees of the Sachsen Ministry for Social Affairs and Social Cohesion are not foreseen. The time limit for action cannot be met by filing an objection. Under federal law, a procedural fee is due in litigation before the administrative courts as a result of the filing of the lawsuit.

Rationale

A. General part

According to § 28 (1) Sentence 1 of the Infection Protection Act (IfSG), the competent authority takes the necessary protective measures, in particular those that are mentioned in §§ 29 to 31 IfSG, if sick persons or persons suspected of being ill, infected or excreting disease-causing agents are identified or if a deceased person is found to have been sick, suspected of being sick or of excreting disease-causing agents, insofar as and for as long as is necessary to prevent the spread of communicable diseases.

SARS-CoV-2 is a pathogen in the sense of § 2 Number 1 IfSG, which has spread in Sachsen and beyond throughout Germany and continues to threaten the health of the population. Persons suspected of having the illness have already been identified in numerous counties and independent cities in the Free State of Sachsen.

B. Special part for

1:

1.1:

This general directive regulates the general conditions and requirements under which childcare facilities and schools can be operated again. For crèches and kindergartens, this general decree enables normal operation under hygiene restrictions. With this general decree, schools can also take steps toward regular operation. At the same time, protection against infection is very important, which is why specific regulations are required to take this into account. This general decree makes use of the possibility created from § 2 (6) of the Sachsen Corona Protection Regulation to instate alternative rules for schools and daycare centres. The reason for these deviations - especially in the area of day care centers and primary schools - is based on the Concept for the reopening of daycare for children, primary schools and the primary level of special education schools in the Free State of Sachsen ("Konzept zur...") developed by a multiprofessional ad hoc working group as well as further consultations by this working group, which also took into account the currently low infection rate in the Free State of Sachsen.

For 1.2:

This regulation is based on the agreement between the Prime Minister and the Federal Chancellor from 6 May 2020 on that regional consequences have to be drawn from a certain development of the infection event.

For 2:

For 2.1 to 2.9:

To ensure protection against infection, it is necessary that only those proven to be without a SARS-CoV-2 infection or without any signs of such an infection enter community facilities in accordance with Point 1.1.

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This includes all persons who carry out teaching, training, caring, supervising or other regular activities in the community facilities; parents or other persons who bring the child to day care; and the pupils and the children to be cared for.

In order to interrupt possible chains of infection in the community facilities listed in Point 1.1, there is the requirement

- that the above-mentioned circle of people promptly inform the facility if an infection with SARS-CoV-2 occurs or if they come into contact with a person infected with SARS-CoV-2,
- that children who exhibit symptoms of SARS-CoV-2 infection during class or during school hours be separated from the group or class and be picked up,
- an entry ban for sick persons.

In consideration of the right to education and care in the context of infection prevention and given the low level of infection, the time period that children with symptoms must wait out before they can return to the facility was reduced (2.5).

Application of the listed personal hygiene protection measures and rules as well as other specified measures for infection prevention and hygiene is necessary to avoid infection with SARS-CoV-2. Posting the listed information in the entrance area is particularly necessary in order to provide school age-appropriate information about personal hygiene protection measures and general measures to protect against infection and to bolster compliance with them.

For 3:

For 3.1:

In view of the low level of infection, the step toward regular operations can now be taken, in that school events are again permitted. Some of the events in question that may be relevant during the summer holidays are listed to help clarify. This applies in particular to the special educational opportunities during the summer break.

For 3.2 to 3.3:

In the sense of the transition to regular operations, people from outside the school are no longer prohibited from staying on the school premises. Instead, for infection prevention reasons, differentiated rules for wearing a mouth and nose covering and documentation of the stay on the school grounds are created for the respective groups of people.

For 3.4:

Despite the transition to regular operations, due to the pandemic situation, hygiene measures and measures to make infection tracing possible are still required. In addition to the documentation in the class register, the daily documentation of outsiders who have been at the school is a suitable instrument. The rule that the documentation obligation only applies after a stay of 15 minutes can be explained by the fact that, according to previous knowledge, the risk of infection increases significantly with direct contact after 15 minutes. The regulation is also intended to help keep the parents' stay at school as short as possible, for example when bringing and picking up pupils.

For 3.5:

Toward equal treatment, schoolchildren are also given the opportunity to take part in a special educational opportunities from the clinic and hospital schools during a stay in the clinic.

For 3.6:

As a precaution, the rule is retained for possible cases of hardship. The rule follows the logic of generally enabling tests. Supplementary examinations for the acquisition of the Graecum, Hebraicum and Latinums for students of the Technical University of Dresden and the University of Leipzig, which supplement the Abitur, are held at the universities. The corresponding infection protection measures can be implemented for this limited group of people at the universities.

For 3.7:

The regulation is intended to ensure that boarding schools can also switch to regular operation with a transition period starting from 18 July 2020. This is permissible under consideration of the respective hygiene plan.

For 4:

The implementation of procedures for determining special educational support needs at primary and special schools (even if the focus of support is changed) as regulated in Points 4.1 to 4.2 is also permitted, as is the completion of still open LRS diagnostics, since diagnostics in these areas is a prerequisite for adequate support.

For 5:

With this general decree, regular childcare operations (day nurseries, kindergartens, daycares and childcare) are made possible taking measures against coronavirus into account.

This change is possible in consideration of the various concerns, the currently low level of infection and the documentation of all non-institutional persons (stay longer than 15 minutes) like before in order to assert the legal right to care on the one hand and to take adequate account of the protection against infection on the other.

According to current scientific knowledge, children are least involved in the infection process. Since the minimum distances between children and the educational specialist cannot be implemented in a daycare, there are extensive regulations that must be complied with in order to act towards infection prevention.

For 5.1:

Nurseries, kindergartens, after-school care and child daycare can organise the day-to-day care according to the underlying pedagogical concept again.

In addition, parents' evenings and discussions with parents as well as a series of events and opportunities can be carried out in the facilities while observing general hygiene regulations. This creates a comparability with previous regulations in the school sector and at the same time improves the possibilities for realising the educational partnership between parents and institutions while maintaining protection against infection. In regular operation under corona protective measures, there should in principle no longer be any restrictions to the contractually agreed scope of care.

For 5.2:

This point continues the previous practice of submitting a health confirmation every day. In view of a low level of infection, the regulation is now concentrated on the specific child and thus a reasonable relief for the families concerned is made possible.

Without this declaration, the child cannot be accepted into care. In addition, pedagogical staff can refuse care if the parents' declaration is not available or the child has symptoms of COVID-19.

For 5.3:

All outsiders to the facility must wear a mouth and nose covering for infection prevention reasons, but they can enter the facility. Additional protection is provided by maintaining the minimum distance between adults.

For 5.4:

With this provision, facility-related events on the facility premises are permitted under the conditions mentioned.

For 5.5:

Even in normal operations, there is a need for daily documentation of the persons who have been in the facility in order to follow a possible chain of infection. On the one hand, the daily documentation of the children and staff present is carried out. On the other hand, all persons who have been in the facility for more than 15 minutes must be noted. This done to further the goal of determining possible infection chains.

Dresden, 14 July 2020

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