

**General decree
regulating the operation of day-care facilities, schools and boarding 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 13 August 2020, file no. 15-5422/4

On basis of Section 28 Para. 1 Sentence 1 of the Infection Protection Act from 20 July 2000 (Federal Gazette (BGBl. I p. 1045), which was last amended by Article 3 of the law from 19 June 2020 (BGBl. I p. 1385) the Sachsen Ministry for Social Affairs and Social Cohesion issues the following

General decree:

1. Subject matter of the general decree

- 1.1. This general decree regulates the operation of publicly and privately funded schools, boarding schools within the meaning of Section 2 Para. 1 of the Saxon Ordinance on the Performance of School Accommodation Services for Pupils, day care facilities for children and day care for children in the Free State of Saxony on the occasion of the pandemic triggered by the novel corona virus SARS-CoV-2.
- 1.2. Within the meaning of this general decree
 - 1.2.1. Facilities: schools, boarding schools, day-care facilities for children and day care for children;
 - 1.2.2. Day care facilities for children: crèches, kindergartens, after-school care and curative day-care centres;
 - 1.2.3. Day care for children: Day-care facilities for children and day-care centres for children;
 - 1.2.4. Pre-school child day-care facilities: crèches, kindergartens, curative day-care centres and day care for children;
 - 1.2.5. Outsiders to the facility: those who are not cared for or schooled in a facility or who are not employed or only temporarily work in a facility;
 - 1.2.6. Symptoms, which indicate a SARS-CoV-2 infection: fever, coughing, diarrhoea, vomiting or a general feeling of sickness;
 - 1.2.7. Risk regions: * States or regions outside of the Federal Republic of Germany, for which an increased risk existed for an infection with SARS-

* With regard to the quarantine obligation upon return from overseas: www.auswaertiges-amt.de/de/ReiseUndSicherheit/quarantaene-einreise/2371468 (last called on 12 August 2020). Information pertaining

CoV-2 on the day of entry into the Federal Republic of Germany according to the classification of the Federal Ministry of Health, the Foreign Office and the Federal Ministry of the Interior, Building and Homeland at the time of abode.

- 1.3. ¹Further regulations and measures of infection protection shall remain unaffected. ²The general decree "Enforcement of the Infection Protection Act - Measures owing to the Corona Pandemic - Order of Hygiene Conditions in order to Prevent the Spreading of the Corona Virus" of the Sachsen Ministry for Social Affairs and Social Cohesion, file no.: 15-5422/22, in its respective version, will not apply.

2. General access, notification and hygiene provisions

- 2.1. Access to facilities as defined in 1.2.1 is not permitted to persons if they
- 2.1.1. are proven to be infected with SARS-CoV-2,
 - 2.1.2. show at least one symptom that indicates a SARS-CoV-2 infection,
 - 2.1.3. within the past 14 days had personal contact with a person proven to be infected with SARS-CoV-2, unless this contact took place in the exercise of a profession in the health care sector or in the provision of care while respecting the protective measures typical of the profession, or
 - 2.1.4. within the past 14 days were in a risk region within the meaning of Point 1.2.7. and do not submit any medical certificate issued after entry from the risk region, according to which no SARS-CoV-2 infection exists.
- 2.2. ¹Persons with illnesses, with whom at least one symptom appears within the meaning of Point 1.2.6., must credibly prove, by a medical certificate or another comparable document, such as for example an allergy pass or the proof of a chronic illness, the harmlessness of these symptoms with regard to SARS-CoV-2. ²Points 2.1.2., 2.3., 2.6. and 2.7. will not apply if such a document is presented.
- 2.3. Pedagogical specialists, teachers and other persons employed in a facility pursuant to Point 1.2.1. or persons working not only temporarily, who have indications of at least one symptom within the meaning of Point 1.2.6., will immediately report this to the management of the facility and will undergo a test for SARS-CoV-2.
- 2.4. Pedagogical specialists, teachers and other persons employed in a facility pursuant to Point 1.2.1. or persons working not only temporarily, pupils who are legal adults and legal custodian of minors schooled or cared for in such a facility are obliged to immediately inform the management of this facility if they or the child being schooled or cared for in the facility is proven to be infected with SARS-CoV-2.
- 2.5. Pedagogical specialists, teachers and other persons employed in a facility pursuant to Point 1.2.1. or persons working not only temporarily, pupils who are

to the identification of international risk regions: www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Risikogebiete_neu.html (last called on 12 August 2020).

legal adults schooled and legal custodian of minors, who are schooled or cared for in such a facility, are obliged to inform the management of this facility immediately if they or their child schooled or cared for in the facility within the past 14 days before access to the facility were within a risk region within the meaning of Point 1.2.7.

- 2.6. 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 or pupils show indications of at least one symptom within the meaning of Point 1.2.6., will only be permitted to access the facility two days after the last occurrence of the symptoms or after presentation of a medical certificate, according to which no SARS-CoV-2 infection exists.
- 2.7. ¹<206If a person, who intends to enter a facility within the meaning of Point 1.2.1. or stays in such a facility, shows indications of at least one symptom within the meaning of Point 1.2.6. they may not enter the facility or they must leave the facility immediately. ²Pupils or children who are cared for, who show at least one symptom within the meaning of Point 1.2.6. during a lesson or any other school event or during the care, should be placed in a separate room; the pick-up by a legal custodian or a person authorised hereby is to be arranged for immediately. ³The supervision duties continue until the child is picked up.
- 2.8. ¹Whosoever enters a facility as defined in Point 1.2.1. must promptly and thoroughly wash or disinfect their hands with an at least limited virucidal agent. 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 agents and an at least limited virucide disinfectant, can be kept in sufficient quantities. ⁴Persons staying in the facility must be notified to comply with these hygiene measures in an age-appropriate manner. ⁵In particular, appropriate notices must be displayed in the entrance area of a facility.
- 2.9. ¹Regularly used surfaces, objects and rooms must be thoroughly cleaned every day, and rooms must be thoroughly ventilated several times a day. ²Classrooms should additionally be thoroughly aired at least once during the lesson, thirty minutes after it begins at the latest. ³Technical media equipment must be cleaned thoroughly after each use.
- 2.10. ¹Equipment within the meaning of Point 1.2.1. with the exception of equipment of the day care for children pursuant to Section 36 Para. 1 Number 1 in conjunction with Section 33 Numbers 1, 3 and 4 of the Infection Protection Act from 20 July 2000 (BGBl. I p. 1045), which was last amended by Article 3 of the law from 19 June 2020 (BGBl. I p. 1385), will issue a hygiene plan. ²This must be based for schools and boarding schools on the current "General hygiene plan pursuant to Section 36 Infection Protection Act for schools and other educational institutions, in which children and adolescents are looked after " and for the other facilities on the current "General hygiene plan pursuant to Section 36 Infection Protection Act for children's facilities (crèches, kindergartens, day-care facilities for children, also integrative, and nurseries)" and take the special features of the specific facility into account.
- 2.11. ¹Legal custodians and pupils who are legal adults must submit a signed assurance of the acknowledgement of the bans on access as well as the infection

protection measures according to this general decree towards the facility attended by their child or by them within the meaning of Point 1.2.1 at the beginning of the school year. ²For this, the form in Appendix 1 should be used. ³If the written assurance is not submitted the child who is schooled or cared for or the pupil who is a legal adult will not be permitted access to the facility from 8 September 2020 until such assurance is subsequently submitted. ⁴The written assurance will remain with the facility and will be destroyed without delay after the expiry of 21 February 2021.

3. Regulations for school operations and for operation of the boarding school

- 3.1. The school operation including all school events and the operation of the boarding schools is permitted by additionally complying with the following regulations.
- 3.2. ¹Outsiders to the facility within the meaning of Point 1.2.5. are obliged to wear a mouth and nose covering during their stay in school and boarding school buildings and on the remaining school and boarding school premises. ²Sentence 1 shall not apply insofar as persons are, as proven, not capable of wearing a mouth and nose covering or the hygiene plan of the school envisages exceptions for an important reason within the meaning of Point 2.10.. ³The school management recommends that sufficient distance will be adhered to as far as possible between persons on the school premises.
- 3.3. ¹A person who does not have to wear mouth and nose covering in school and boarding school buildings or on the remaining school and boarding school premises, is obliged to carry such covering with him or her. ² The wearing of a mouth and nose covering outside of classrooms on the school and boarding school premises is also recommended for persons who are not outsiders to the facility. ³An obligation to wear a mouth and nose covering outside of classrooms on the school premises can incidentally be regulated in the hygiene plan of the school within the meaning of Point 2.10.
- 3.4. ¹In order to ensure the traceability of infection chains, daily records must be kept of persons from outside the institution who spent more than fifteen minutes in a school building during school hours or at a school event. ²One month after the day of the documentation this is to be erased or destroyed without delay.
- 3.5. The management of clinic and hospital schools shall issue the hygiene plan of the school within the meaning of Point 2.10. by coordination with the management of the clinic.

4. Regulations for the operation of day-care centres

- 4.1. The operation of pre-school day-care centres within the meaning of Point 1.2.4. is permitted by additionally complying with the following regulations.
- 4.2. ¹Legal custodians or the persons authorised by them are obliged to declare daily, before their child enters the pre-school day-care centre within the meaning of Point 1.2.4. for the first time, towards the facility in writing that the child is not showing any symptom within the meaning of Point 1.2.6. ²For this, the form in Appendix 2 should be used. ³If the declaration is not presented, the child will not be received by the day care that day. ⁴After inspection, the form shall remain with the person who presented it.

- 4.3. ¹Outsiders to the facility within the meaning of Point 1.2.5. are obliged to wear a mouth and nose covering during their stay in buildings of the facility and on the remaining facility premises and to keep sufficient distance to other persons. ²Sentence 1 shall not apply insofar as persons are, as proven, not capable of wearing a mouth and nose covering or of keeping sufficient distance to other persons.
- 4.4. ¹In order to ensure the traceability of infection chains it is to be documented daily, which children were cared for in the facility, who was entrusted with the care and which outsiders to the facility were in a building of the facility for longer than fifteen minutes. ²One month after the day of the documentation, this is to be erased or destroyed without delay.
- 4.5. Points 4.3. and 4.4. shall apply accordingly to nurseries.

5. Effectiveness and invalidity of the general decree, reservation of revocation

- 5.1. ¹This general decree will become effective on 31 August 2020 with the exception of Points 3.2. and 3.3., which will become effective on 1 September 2020. ²The general decree will cease to be valid with the expiry of 21 February 2021 with the exception of Points 2.11. Sentence 4, 3.4. Sentence 2 and 4.4. Sentence 2, which will cease to be valid with the expiry of 7 March 2021.
- 5.2. This general decree is issued subject to the reservation of the revocation in the event that, after its announcement, the factual position of the SARS-CoV-2-pandemic or the legal position under infection protection law develop to the extent that other regulations than those set forth in this general decree become necessary.

6. Possibility for viewing

This general decree including its substantiation can be viewed in the Sachsen Ministry for Social Affairs and Social Cohesion, at Unit (Referat) 15 Legal Affairs and Procurement Office, Albertstraße 10, 01097 Dresden, Monday to Friday in the period of time from 9am to 3pm.

Attachments:

- Assurance of the acknowledgement of the bans on access as well as the infection protection measures (**Attachment 1**)
- Form for the confirmation of health (**Attachment 2**)

Rationale

A. General part

According to Section 28 Para. 1 Sentence 1 of the Infection Protection Act (IfSG), the competent authority takes the necessary protective measures, in particular those that are mentioned in Sections 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 Section 2 Number 1 IfSG, which has spread pandemically also in the Free State of Saxony and threatens the health of the population. The development of the SARS-CoV-2 pandemic is characterised by many uncertainties. It can above all not be excluded that local, regional or national infection hotspots may form, which require a further restriction of the school operation or of the operation of child day-care facilities or even a closure of this facility. However, this should concern exceptions. Principally, the standard operation due to the pandemic will be adhered to until the end of the SARS-CoV-2 pandemic in the Free State of Saxony insofar as feasible from an infectiological point of view; the infection situation will be observed on a daily basis and the scientific assessment will be taken into consideration.

B. Special part for

For 1:

For 1.1:

This general decree stipulates a framework, within which schools and boarding schools as well as day-care facilities for children can manage their standard operation under "pandemic conditions". The standard operation due to the pandemic is based on the "concept for the re-opening of day care for children, the elementary schools and the primary level of the special schools in the Free State of Saxony" drawn up by a working group of selected experts and subsequently further deliberations with a view to the current events with regard to infections in the Free State of Saxony.

When drawing up the general decree, the resolution of the conference of ministers of education of 18 June 2020 relating to the return to the standard school operation after the summer holidays and for all further facilities within the meaning of this general decree of the resolution of the conference of ministers of education "framework for updated infection protection and hygiene measures" of 14 July 2020 were taken into consideration for the school sector.

For 1.2:

Points 1.2., 1.2.1. to 1.2.7. contain "legal definitions" of the most important terms, which are used in the general decree.

For 1.3:

The provision makes clear that this general decree finally regulates the operation of the facility to a large extent according to Point 1.2.1.

For 2:

To ensure protection against infection, it is necessary that only those proven to be without a SARS-CoV-2 infection or without signs of such an infection enter the facilities covered by the

general decree. 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.

For 2.1. to 2.1.4.:

This regulation prevents that persons, who are infected with SARS-CoV-2, enter facilities (Point 2.1.1.). These persons are deemed equivalent to those, for whom it cannot be excluded with sufficient probability that they have not been infected with the novel Corona-Virus SARS-CoV-2 owing to certain external signs or conditions.

Point 2.1.4. takes the circumstance into account that the entry into the Federal Republic is possible regardless of the respective events with regard to infections and that during the summer holidays a large number of holiday trips to foreign countries are carried out.

For 2.2. to 2.11.:

In order to interrupt possible chains of infection in the facilities covered by the general decree, there is a requirement for this,

- that the 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.

For "travellers returning" from risk regions (cf. Points 1.2.7. and 2.1.4.) Point 2.5. stipulates an information obligation towards the facility management.

When weighing up between education and care entitlement and the protection against infection, in view of an occurrence of infections on a low level, a short deadline is adhered to, after the expiry of which children, who show symptoms can attend the facilities again. Irrespective thereof the attendance of the facility is also permitted after a current negative test for SARS-CoV-2.

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. In order to avoid a concentration of aerosols the classrooms should also be aired at least once during a lesson. This can be refrained from if this is not possible e.g. because of an ongoing class test, without the pupils having to interrupt the test. Whether the airing during the lesson has to involve a short break depends on the local and weather conditions.

In view of the still existing risks in connection with an infection with SARS-CoV-2 and the hygiene measures required in this context up to bans on access it is necessary to obligate the parents to confirm the acknowledgement of the corresponding regulations in writing. In addition, the confirmation of health that is to be signed daily shall be adhered to for the pre-school day care for children: Even if according to the current status of knowledge younger children are not the "drivers" of infections with SARS-CoV-2, they can nevertheless become ill with more than average frequency with infections, which are associated with comparable symptoms.

For 3:

Contents of Points 3.1. to 3.5. include special regulations for the school operation and the operation of schools connected with boarding services.

For 3.1:

Besides the general regulations of Point 2 of the general decree Points 3.2. to 3.5. shall additionally apply to all schools and associated boarding schools in the Free State

For 3.2:

Outsiders to the school are not (no longer generally) prohibited from staying on the school premises. Sentence 1 makes it clear that for persons belonging to the school, in particular thus for pupils and teachers, there is principally no obligation to wear a mouth and nose covering on the school premises (so-called mask obligation). According to Sentence 2 outsiders to the school are exempted from the mask obligation if this is deemed unreasonable or for another important reason. Sentence 3 finally does not stipulate any essential obligation to keep to the minimum distance – as a rule one and a half metres–; however, a cautious behaviour is expected in this respect.

Point 3.2. Sentence 2 is oriented to the corresponding exceptions in § 1 Paragraph 2 Saxon Corona Protection Ordinance [Sächsische Corona Schutzverordnung - SächsCoronaSchVO] for children, wards and people with disabilities or health impairments. Special features of the specific school can moreover also be integrated into the regulation context through the hygiene plan (Section 36 IfSG) and the effect of the infection protection measures can thus be optimised at the specific facility.

For 3.3:

There is no obligation to wear a mouth and nose covering on the school premises for *persons* who belong to the facility, in particular thus for pupils and teachers. A "mask wearing obligation" may however be announced outside of classrooms in the hygiene plan (i.e. at the dutiful discretion by safeguarding the principle of proportionality). Insofar as such an obligation does not exist, persons who belong to the school are advised to wear a mouth and nose covering. Suitable means, for example information notices or regular "instructions" can be used for this purpose.

For 3.4:

Despite the transition to regular operations and due to the pandemic situation, not only hygiene measures, but also measures to make infection tracing possible are still required. Retaining and promoting this tracing is also a decisive tool to contain the spreading of the pandemic with possibly once again rising infection figures. In addition to the already usual documentation of the presence of pupils and teachers in the so-called class register, the daily documentation of the persons from outside the school who have been in the school is a suitable means for this. The documentation obligation only applies from a stay of 15 minutes, because 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 time the persons with custody stay at school as short as possible, for example when bringing and picking up pupils. For data protection reasons, the documentation is not stored for longer than necessary for the tracing of possible infection chains.

For 3.5:

In view of the close cooperation, also in terms of premises, of clinic and hospital schools with the respective clinic, it is necessary for the hygiene plan of the school to be coordinated with the management of the clinic.

For 4:

Points 4.1. to 4.4. contain additional special regulations for all pre-school day-care facilities (crèches, kindergartens, curative day-care centres and day care for children). Nurseries are therefore no longer covered, for which now principally only the general regulations of Point 2

apply; in addition, however, according to Point 4.5. the "mask wearing obligation" pursuant to Point 4.3. and the "documentation obligation" pursuant to Point 4.4. shall also accordingly apply to nurseries.

This change is possible and required by weighing up the various concerns, the current low level of infections and the documentation of all outsiders to the facility that is still to be provided (stay of longer than 15 minutes) in order, on the one hand, to assert the legal entitlement to care and, on the other hand, to take the protection against infection into account. For data protection reasons, the documentation is not stored for longer than necessary for the tracing of possible infection chains.

According to current scientific knowledge, children are least involved in the infection process. Because the minimum distances between children and the educational specialist cannot be implemented in day care, there are regulations that must be complied with in order to continue to guarantee infection prevention.

For 4.1:

Nurseries, kindergartens, curative day-care centres and child day care can organise their everyday life in accordance to the underlying pedagogical concept. In regular operation under corona protective measures, there should in principle no longer be any restrictions to the contractually agreed scope of care.

For 4.2:

With this provision, the previous practice of submitting a "health confirmation" every day continues. In view of a level of infection at a low level, the regulation for day-care facilities for children is concentrated on the specific child. No care will take place for the child in the pre-school sector without this declaration. In addition, it is possible for the pedagogical specialists of all areas of day care for children to refuse care if the child shows symptoms of the COVID-19 disease.

For 4.3:

Outsiders to the facility must wear a mouth and nose covering for reasons of protection against infection. Additional protection is obtained by keeping a sufficient minimum distance of, as a rule, one and a half metres. It is necessary for so-called outsiders to the facility, as opposed to at schools, because day-care facilities for children mostly have more "restrictive" spaces in rooms than schools; larger free spaces are thus missing, sports grounds, halls for breaks, auditoriums, larger rooms, etc., which can often be found in schools, with these facilities as a rule. The same shall apply to day care for children.

Sentence 2 is based on the corresponding exceptions in Section 1 Paragraph 2 Saxon Corona Protection Ordinance [*Sächsische Corona Schutzverordnung - SächsCoronaSchVO*] for children, persons subject to protection and persons with disabilities or health restrictions. The possibility through the hygiene plan (Section 36 IfSG) to also impose the obligation to wear a mouth and nose covering upon the children or supervising specialists, does not exist, because such an obligation is not assertible for children of this age.

For 4.4:

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. For reasons of data protection, the documentation is not stored for longer than necessary for tracing possible infection chains.

For 5:

For 5.1.

The long duration of validity should contribute to the planning security in the facilities concerned. It indicates that it is not intended to subject the operation of these facilities to tighter restrictions under infection protection law nationwide once again, unless this is required by a changed factual or legal position. The times stipulated for when the provisions become effective and cease to be valid are oriented to the regulations applicable for the majority of schools in Saxony as of the first and last day of lessons in the first half-year of the school year 2020/2021 (cf. VwV requirement and expiry of school year 2020/2021 of 17 April 2020 [MBI. SMK S. 52, 101]). The regulations, which should only cease to be valid as of 7 March 2021, must remain valid for longer owing to the obligations that extend beyond the general period of validity.

For 5.2:

The reservation of revocation makes it clear that a change that is possible at all times to the current infection situation will lead to an adjustment – that is always oriented to the general principle of proportionality – to the general decree: As the past months have proven the infection situation often develops dynamically and is also associated with adjustments to legal bases. In order to be able to keep up with this dynamic position in the interest of an optimum protection against infection, the responsible authorities must be flexible when handling their legal tools. The reservation of revocation serves to secure this flexibility also with a view to this general decree and to facilitate the ability to satisfy the observation and examination obligation, which the health authorities are subject to with regard to measures under infection protection law.

Legal appeal instructions

Legal action can be filed against this general decree within one month after its announcement at the Administrative Court with local jurisdiction.

The local court is the Administrative Court in the Free State of Saxony in whose district the complainant has its seat or residence:

- the Administrative Court of Chemnitz, Zwickauer Straße 56, 09112 Chemnitz, in the case of a seat or residence in the City of Chemnitz, the District of Central Saxony, the District of the Erzgebirgskreis, the Vogtlandkreis or the District of Zwickau;
- the Administrative Court of Dresden, Hans-Oster-Straße 4, 01099 Dresden, if the registered seat or place of residence is in the City of Dresden, the District of Görlitz, the District of Bautzen, the District of Meissen or the District of Saxon Switzerland-East Ore Mountains (Sächsische Schweiz-Osterzgebirge);
- the Administrative Court of Leipzig, Rathenaustraße 40, 04179 Leipzig, if the registered seat or residence is in the City of Leipzig, the District of Leipzig or the District of North Saxony.

The Dresden Administrative Court, Hans-Oster-Straße 4, 01099 Dresden, Germany, is locally responsible for complaints without a seat or residence in the Free State of Saxony.

Dresden, 13 August 2020

Uwe Gaul
State Secretary
Sachsen Ministry for Social Affairs
and Social Cohesion