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# **NEW GUIDANCE EMPHASIZES IMPORTANCE OF SCHOOL AND LOCAL HEALTH DEPARTMENT COLLABORATION**

New [guidance](#) issued this week by the Illinois Department of Public Health (“IDPH”) provides clarity on the role local health departments play in helping schools combat the spread of COVID-19 as they return to hybrid or full in-person instruction. While school districts should maintain consistent and open communication with their local health departments, here are a few key issues highlighted in the recent guidance:

- A new [decision tree](#) indicates that schools should require documentation from the Local Health Department or healthcare providers before permitting employees or students to return to school in the following situations:

1. When a person has isolated because he or she previously tested positive for COVID-19, or was diagnosed with COVID-19 without diagnostic testing, the school should obtain a “release from isolation” letter issued by the Local Health Department to the sick individual;
2. When a person has COVID-19-related symptoms, but obtains a negative COVID-19 diagnostic test, the school should obtain a copy of the negative test or a health care provider’s note indicating that the test was negative;
3. When a symptomatic person obtains an alternative diagnosis, but does not get a negative COVID-19 test, the school should obtain a healthcare provider’s note with the alternative diagnosis
4. When a person stays home due to COVID-19 symptoms, but does not get a COVID-19 test or an alternative diagnosis, the school should obtain a note from the employee or parent/guardian of the student indicating that the sick individual has been fever-free without fever-reducing medication for at least 24 hours and that other symptoms have improved.

5. When an asymptomatic person has quarantined because he or she was a “close contact” to a confirmed or probable COVID-19 case, the school should obtain a “release from quarantine” letter issued by the Local Health Department to the sick individual.

Please note that, in addition to obtaining the above documents, school districts should continue to require that people who have confirmed or probable cases of COVID-19 must meet the following time-based requirements before returning to school: (1) at least 10 days from the onset of symptoms; (2) at least 24 hours fever-free without fever-reducing medication; and (3) improvement of other symptoms.

- Schools should send an immediate written notification to the Local Health Department when a student or staff member tests positive for COVID-19 or becomes sick with COVID-19 symptoms. Schools should share all available information about the case’s movements and potential exposures within the facility.

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- The Local Health Department will contact the COVID-positive individual to perform contact tracing. School districts should aid this process by providing the Local Health Department with attendance records, classroom schedules, seating charts, transportation schedules, and staff assignments to help identify close contacts.
- If a person diagnosed with COVID-19 is determined to have been within school during the 48 hours prior to symptom onset (for a symptomatic person) or 48 hours before specimen collection (for an asymptomatic person), the school may be closed temporarily for cleaning and disinfection. When school closure is warranted will be determined through a Local Health Department investigation.
- If an outbreak occurs (e.g., at least 2 cases within 14 days in the same classroom), the Local Health Department will investigate to determine the extent of exposure at the school and what control measures (ranging from increased social distancing procedures to school closure) are warranted.

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Our office will continue to provide updates as more information becomes available. If you have any questions, please do not hesitate to contact one of our attorneys.

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# **ILLINOIS DEPARTMENT OF PUBLIC HEALTH ISSUES UPDATED GUIDANCE FOR A RETURN TO IN-PERSON INSTRUCTION**

Recently, our firm issued a Priority Briefing regarding how schools should respond if and when staff or students test

positive for COVID-19 or present with COVID-19 symptoms. On August 12 and 13, the Illinois Department of Public Health (IDPH) issued new guidance on these issues. Although much of the information remains the same, the new guidance provides additional detail and clarification on multiple issues. Accordingly, we recommend reviewing our earlier [Priority Briefing](#) in addition to the new [IDPH guidance](#) and this Priority Briefing.

The new IDPH guidance, among other things, provides the following information:

- All students and staff who are sent home with COVID-19 symptoms should be diagnostically tested.
- When a person has COVID-19 or related symptoms, the individual cannot return to school until: (a) at least 10 days have elapsed since the onset of symptoms; and (b) the person is at least 24 hours fever free (without use of fever-reducing medication); and (c) other symptoms have improved.

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- A student or staff member who experiences COVID-19 symptoms but is diagnosed with a non-COVID illness may return to school before meeting the above requirements if the individual has: (a) a doctor's note documenting an alternative diagnosis; or (b) a negative COVID-19 test result.
  - If an individual with COVID-19 symptoms does not get tested or have a doctor's note documenting an alternative diagnosis, the person cannot return to school until he or she meets the 10 day/24 hour/symptom improvement rule described above.
- If a student is sent home sick with COVID-19 symptoms, all siblings/household members must also be sent home.
- If any staff-member or student presents at school with one or more COVID-19 symptoms, that individual should be immediately isolated, evaluated. Schools should evaluate the individual to determine if the symptom is new or part of an existing condition.
- A person is considered a "close contact" if they have been within 6 feet of a confirmed case of COVID-19 (with or without a face covering) for at least 15 minutes throughout the course of a day.

- If the sick individual is symptomatic, the period of close contact begins 2 days prior to the onset of symptoms. If the sick individual is asymptomatic, the period of close contact begins 2 days before the positive sample was obtained.
- Close contacts are required to quarantine for 14 days starting from the last day of contact with the confirmed case.
- If a close contact quarantines for 14 days and does not get any COVID-19 symptoms, that individual may return to school without a doctor's note.
- It is considered an "outbreak" if two or more confirmed cases of COVID-19 occur within 14 days of each other in the same classroom. If this occurs, a local health department will investigate the outbreak and may recommend testing and quarantining for all students and staff in the classroom.
- If a student-athlete has COVID-19 or related symptoms, the school should provide a generic notification to other schools and teams with which the sick student may have had contact. The notification should not include the sick student's name or any personally identifying information.



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- Schools should ask parents and guardians to notify them as quickly as possible with any confirmed or probable COVID-19 cases.
- Face coverings may be temporarily removed at school for the following reasons: (a) eating; (b) when outdoors and physical distancing of at least 6 feet can be maintained; (c) playing a musical instrument outdoors with at least 6 feet of social distancing; and (d) if using a face shield when other methods of protection are not available or appropriate. Please also note that the ISBE Part 3 Transition Guidance FAQ document updated on August 17, 2020 provides that teachers and staff should be allowed to remove their face coverings when they are alone in their classroom or offices if the doors are closed.
- Individuals with a condition that prevents them from wearing a face covering are required to provide a doctor's note.
- Face shields can only be used as a substitute for face coverings in the following circumstances: (a) individuals under age 2; (b) individuals who are unconscious, incapacitated, or otherwise unable to remove the cover without assistance; (c) individuals with a doctor's note

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- indicating they have a condition making it absolutely inadvisable to wear a face covering; and (d) teachers needing to show facial expressions where it is important for students to see how a teacher pronounces words (e.g., English learners, early childhood, foreign language, etc.)
- Anyone who has travelled internationally should stay quarantine and monitor for symptoms for 14 days. Schools must also follow any other applicable state and local travel restrictions.
  - Areas used by an individual with COVID-19 symptoms should be closed off as long as practicable before beginning cleaning and disinfection. Outside doors and windows should be opened to increase air circulation in the area. If possible, wait up to 24 hours before beginning cleaning and disinfection. Cleaning staff should clean and disinfect all areas used by the ill persons with COVID-19 symptoms, focusing especially on frequently touched surfaces.
  - A school nurse performing a clinical evaluation of a sick individual must use appropriate personal protective equipment (PPE) including: (a) fit-tested N95 respirator; (b) eye protection with face shield or goggles; (c) gown;

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and (d) gloves.

- Personnel responsible for cleaning areas used by an individual known or suspected to have COVID-19 must use appropriate personal protective equipment (PPE) including: (a) fit-tested N95 respirator; (b) eye protection with face shield or goggles; (c) gown; and (d) gloves.

Our office will continue to provide updates as more information becomes available. If you have any questions, please do not hesitate to contact one of our attorneys.

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# **COURT DENIES CHALLENGE TO NEW TITLE IX AMENDMENTS**

You may recall that we recently reported on the amendments to Title IX of the Education Amendments of 1972. The amendments to Title IX became final on May 6, 2020 and must be followed by school districts beginning today, August 14, 2020. The amendments, among many other things, accomplished the following:

- Changed the timeline for which schools must respond to complaints of sexual harassment;
- Changed Title IX's definition of "sexual harassment;"
- Required schools to designate a Title IX Coordinator to coordinate the school's efforts to comply with Title IX responsibilities; and
- Added certain requirements to what must be contained in a school's response to allegations of sexual harassment.



In its most recent issue, the Illinois Association of School Boards' Policy Reference Subscription Service ("PRESS") included a suggested, revised Title IX policy along with several Administrative Procedures for the policy (Policy #2:265 in most school boards' policy manuals).

Two days ago, on August 12, 2020, the United States District Court for the District of Columbia denied an attempt by 18 state Attorneys General to block the Title IX amendments. This means that the Title IX amendments are still set to take effect today unless the applicable United States Court of Appeals reverses the District of Columbia court's decision. Therefore, school districts should still be prepared to follow the Title IX amendments and any policy revisions their school boards may adopt.

If you have any questions about the amendments' requirements or the process for your school board to adopt the amendments' requirements, please contact your attorney at Hauser, Izzo, Petrarca, Gleason & Stillman, LLC.

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# **GUIDELINES FOR HANDLING STAFF AND STUDENTS WHO PRESENT WITH SYMPTOMS OF, OR TEST POSITIVE FOR, COVID-19**

As school districts open for full time in-person instruction and/or blended-remote learning, they will undoubtedly have staff and students test positive for COVID-19 or arrive at school with related symptoms. It is therefore imperative that school districts understand current public health guidelines for how to handle these situations, including who should be sent home, when those individuals can return, and how to notify school



communities.

### **Symptom Screening**

The Illinois State Board of Education (“ISBE”) and Illinois Department of Public Health (“IDPH”) currently require schools to conduct temperature and symptom screenings or require self-certification and verification for all staff, students, and visitors entering school buildings. Individuals with a temperature greater than 100.4 degrees or currently known COVID-19 symptoms may not enter school buildings and should be sent home. COVID-19 symptoms currently include fever, cough, shortness of breath or difficulty breathing, chills, fatigue, muscle and body aches, headache, sore throat, new loss of taste or smell, congestion or runny nose, nausea, vomiting, and diarrhea.

On July 23, 2020, the Centers for Disease Control and Prevention (“CDC”) stated that it does not currently recommend universal



symptom screenings for students. To date, however, ISBE and IDPH still require symptom screening. Unless and until ISBE and IDPH alter their recommendations, schools should perform daily temperature/symptom screening, or require self-certification and verification, for all students, staff, and visitors.

**What happens if an individual presents with COVID-19 symptoms or tests positive for COVID-19?**

*1. Separate and Send Home*

Students and staff should not come to school if they are sick or have symptoms of COVID-19. If an individual arrives at school with COVID-19 symptoms, or presents with symptoms in the middle of the school day, that individual should immediately be separated from the rest of the school population and should be sent home. Schools should designate a safe area to quarantine/isolate individuals who are experiencing COVID-19 symptoms and are awaiting pickup or evaluation. To be clear,





however, students should not be left alone and should be supervised by a qualified staff member.

## *2. Return to School in Accordance with Public Health Guidance*

Individuals who test positive for COVID-19 or who have COVID-19 symptoms should only return to school in accordance with current public health guidelines. Currently, ISBE and IDPH require the following:

1. At least 10 days must pass after the individual's symptoms first appeared; AND
2. The individual must be at least 24 hours fever-free without fever-reducing medication; AND
3. Improvement of other symptoms

If an individual tests positive for COVID-19, but never presents with symptoms, he or she can return 10 days after the first



positive test.

For returns with greater time-urgency, school districts should contact their attorney for additional advice and options.

**What if an individual has been in “close contact” with a person who tests positive for COVID-19 or is suspected of having COVID-19?**

An individual who has been in “close contact” with a person who has COVID-19, or is suspected of having COVID-19, should self-quarantine at home and monitor for symptoms for 14 days. Close contact means that the individual was within 6 feet of the person with symptoms for more than 15 minutes. If the individual who was in close contact does not present with symptoms over the 14-day period, he or she may return to school. If the individual has symptoms, he or she should return to school in accordance with the 10-day/24-hour rule described above.



## **Notifying the School Community**

School Districts should create a plan for how they will notify school communities when a person tests positive for COVID-19. Importantly, the Americans with Disabilities Act (“ADA”) and the Family Educational Rights and Privacy Act (“FERPA”) impose confidentiality requirements on school districts which limit the information districts can release. The CDC and U.S. Department of Education have thus issued guidance on how to notify school communities about positive COVID-19 tests, while maintaining confidentiality in compliance with the ADA and FERPA. Specifically, the notification that is sent out to a school community should not identify the sick employee or student, nor should it contain any other personally identifying information related to that individual.

On July 28, 2020, ISBE released a sample notification letter that school districts can use to inform school communities about positive tests. This letter can be found under the “Remote Learning & Transition Considerations” tab on [ISBE’s Coronavirus](#)



[Webpage](#).

Our office will continue to provide updates as more information becomes available. If you have any questions, please do not hesitate to contact one of our attorneys.

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