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NEW SPECIAL EDUCATION REGULATIONS REQUIRE QUALIFIED INTERPRETERS AT IEP MEETINGS

Effective January 22, 2021, the Illinois State Board of Education (ISBE) has adopted new regulations that require districts to provide "Qualified Interpreters" at IEP meetings to allow parents, whose native language is other than English, to meaningfully participate in the meeting. The regulations also require districts to give parents notice of the availability of interpretation services. ISBE sets forth credentials for a "Qualified Interpreter."

The new regulations require that districts:

- Pay for qualified interpreters to attend IEP meetings. If the district does not employ a qualified interpreter, the

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district may use outside vendors, including telephonic interpreters.

- Provide in an annual notice to all parents of children with disabilities, and in each Notice of IEP Conference, information about the availability of interpretation services at IEP meetings, an explanation of how parents can request an interpreter, notice that the parent may request that the interpreter serve no other role at the IEP meeting and that the district should make reasonable efforts to fulfill this request, and a person to contact with any questions or complaints about interpretation services.

- Document whether a parent requested an interpreter, previously requested interpretation, or had otherwise indicated that an interpreter was necessary to meaningfully participate in the IEP meeting, the language for interpretation, whether a qualified interpreter was provided for each IEP meeting, whether the parent

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requested that the interpreter serve no other role in the IEP meeting and whether the district granted that request.

The regulations provide numerous requirements for "Qualified Interpreters." The individual must:

- Satisfy all employment requirements of the district.

- Demonstrate proficiency in English and the target language by passing State-approved language proficiency tests in the domains of listening, speaking, and reading. (The regulations provide exemptions to taking these tests if the individual possesses certain degrees or licenses, a State Seal of Biliteracy, certain certifications or received a score of 4 or higher on an Advanced Placement language test in the target language).

- Complete at least six hours of training on special

education terminology and protocols. (The regulations provide an exemption for individuals who hold special education licenses, endorsements, or approvals).

- Complete at least nine hours of training on (1) interpreting in and out of English; (2) interpretation standards of practice, ethics, and confidentiality; (3) the role of the interpreter and role boundaries; and (4) respect, impartiality, professionalism, cultural competence and responsiveness and advocacy for communication and cultural needs. This training must include videos demonstrating proper and improper interpretation techniques.

- After completing the nine hours of training, achieve a score of at least 80% on a written examination to demonstrate knowledge of special education terminology and protocol, interpretation standards and techniques, and interpretation ethics.

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- After completing the nine hours of training, achieve a score of at least 70% on an oral examination on interpreting in and out of English, through consecutive or simultaneous interpreting, and sight translation.

To maintain the designation of "Qualified Interpreter," the individual must participate in at least six hours of ongoing professional development at least once every two years in the areas of confidentiality, accuracy, impartiality, interpreter ethics and professionalism, cultural awareness, special education processes, special education vocabulary, and language acquisition.

The new regulations respond to the concerns of parents who brought suit against Chicago Public Schools in *H.P. v. Board of Education of the City of Chicago,* who alleged that CPS failed to provide competent interpretation services. The parents argued that their children were denied a Free Appropriate Public Education because, without effective interpretation services, the parents could not meaningfully participate in their

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children's IEP meetings or in decisions critical to their special education.

Collective bargaining issues such as the provision and payment for training to become and maintain status as a Qualified Interpreter may arise, depending upon how the district provides these services.

If you have questions regarding the new special education regulations, please contact one of our attorneys in Flossmoor (708.799.6766) or Oak Brook (630.928.1200).

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WORKING CASH BONDS USE FOR BUILDING PROJECTS RECEIVES APPELLATE COURT APPROVAL, AGAIN

For the second time in a little more than three years, an Illinois Appellate Court panel has rejected the persistent claims of tax rate objectors that limited bonds, such as working cash bonds, cannot be used for capital projects without prior voter approval.

In 2017, the Illinois Appellate Court, Second District, issued an opinion in the case of *1001 Ogden Avenue Partners v. Henry*. There, the focus was on whether building improvement projects fell within the broad meaning of the "corporate purposes" for which non-referendum working cash bonds could be issued. The Second District answered this question in the affirmative.

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In a new order issued December 24, 2020, the Illinois Appellate Court, First District, followed the Second District's lead. In *1400 Wolf Road, LLC v. Pappas*, the court rejected several alternative arguments as to why a school district could not issue working cash bonds without voter approval, even though the school district had indicated an intent to use the bond proceeds for certain building projects. The court recognized that the law permits the issuance of these bonds even when the proceeds are intended for permanent transfers, not just future loans, and for capital projects, not just operational expenses. Both *1001 Ogden Partners* and *1400 Wolf Road* held that a school district giving the notices prescribed by law prior to the issuance of working cash bonds did not have to say anything more in those notices in order to justify using the bonds for capital purposes.

It has long been a common practice for school districts throughout the State to borrow money via non-referendum limited bonds, such as working cash or funding bonds, and then to transfer the proceeds to pay the cost of capital improvements – large or small, but short of building a new school building.

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Such a method of financing is, of course, subject to various express legal limitations. School Code Article 20 provides a limit on the amount of a working cash bond issue. These bonds can only be issued after public notice and an opportunity for a backdoor referendum petition and after a public hearing under the Bond Issue Notification Act. The taxes to pay for the bonds must fall within the limits of the district's debt service extension base.

The tax rate objectors argued that the issuance of working cash bonds for capital projects must follow the School Code's direct referendum process for building bonds, and that failing to do so also violated the Property Tax Extensions Limitation Law and other statutes. The court in *1400 Wolf Road* held that a school district following all the statutory procedures for the issuance of working cash bonds did not violate any other law.

Aspects of this particular tax rate objection theory have been pursued for many years by taxpayers in different counties. Amendments to Article 20 in 2010 clarified that abatements of

the working cash fund may be made "at any time" and the transfers may be made to "any fund". Nonetheless, there are rate objections against numerous school districts still pending in court which are premised on the theory which has now been rejected twice in the Appellate Court. While the objectors may yet seek review by the Illinois Supreme Court, the fact that two Judicial Districts have come to the same conclusion means that such review is highly unlikely.

What we said in our Priority Briefing after the decision in *1001 Ogden Partners* applies just as well after the decision in *1400 Wolf Road*:

"*The consequences of a court decision going the other way can hardly be overstated. Not only would those school districts with pending objections of this sort (and there are scores of those) face the prospect of losing millions of dollars in revenue through tax refunds, no school district in the future would be able to finance even the most routine capital projects without waiting for voter approval*."

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John Izzo of Hauser, Izzo, Petrarca, Gleason & Stillman, working with other law firms, has been actively involved in the long struggle to defeat the working cash fund bonds objections throughout the years of litigation in DuPage and Cook Counties and the successful effort to pass the amendments to Article 20 of the School Code. If you have any questions, please contact John or any our attorneys in our Flossmoor Office at 708-799-6766 or our Oak Brook Office at 630-928-1200.

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PUBLIC ACCESS COUNSELOR SETS RULES FOR REMOTE MEETING

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CONCERNS

Recently, the Public Access Counselor at the Illinois Attorney General's Office ("the PAC") has issued opinions on remote meeting concerns involving the Open Meetings Act. Public bodies must take efforts to ensure compliance or risk findings of a violation of the Open Meetings Act.

In a non-binding opinion, the PAC determined that a school district violated the Open Meetings Act when certain individuals were unable to access the meeting. The board of education held a meeting to discuss its school reopening plan and permitted the public to attend remotely. At the time of the meeting, the district's Zoom license only permitted 100 individuals to access the meeting at a time. Although the board anticipated that the meeting would generate significant interest among members of the public, it did not increase the limit on its license.

The PAC ruled that this situation constituted a violation of the

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Open Meetings Act. It did not meet the requirement that when conducting a remote meeting, the public body make alternative arrangements to "allow any interested member of the public access to contemporaneously hear all discussions, testimony and roll call votes." Districts should take care that however they may conduct remote meetings permits all interested members of the public to attend. Having a license only permitting a limited number of individuals to attend could subject a district to complaints under the Open Meetings Act.

Similarly, the PAC has also issued a binding opinion about muting the audio during meetings. A village board conducted a videoconference meeting. During the meeting, the mayor had a question for the city clerk regarding the propriety of discussing a personnel matter in the public session. In order to conduct a private "sidebar," the mayor had the audio muted to specifically ask the clerk his question. The audio was muted for approximately one minute.

As many know, it is quite common during an in-person meeting

that various members of the governing board may engage in private sidebar discussions. The PAC ruled that there is no provision within the remote meeting procedures that permits muting the conversation. There is no exception to the rule that members of the governing board must be audible during a remote meeting and that by muting the conversation, the body did not permit all interested individuals "to contemporaneously hear all discussion, testimony, and roll call votes."

It is clear that the PAC is strictly construing the remote meeting procedures. Although certain exceptions may exist for in-person meetings, the PAC is not reading those into the remote procedures.

Districts should consider these rules and ensure that they are following the requirements of the remote meeting rules. The attorneys at Hauser, Izzo, Petrarca, Gleason & Stillman are available to consult on any questions you may have.

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NEW MANDATE TO POST IMRF LINK ON DISTRICT WEBSITES

Beginning January 1, 2021, Illinois school districts and other local taxing bodies are required to post a link on their websites to the following URL:

https://www.imrf.org/en/about-imrf/transparency/employer-cost-and-participation-information

This webpage is on the Illinois Municipal Retirement Fund ("IMRF") website and contains information about all IMRF

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employers' participation in the fund. Illinois Public Act 101-504, which was passed in 2019, does not require school districts and other local taxing bodies to create or maintain a website. However, to the extent a school or other local taxing district already has a website, it must post this link on its website on or before January 1, 2021.

Please contact one of our attorneys if you have any questions.

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COOK COUNTY SCHOOL BOARD

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CANDIDATES' FILING LOCATIONS ANNOUNCED FOR THE APRIL 6, 2021, ELECTION

As you are aware, filings for school board candidates are handled by the County Clerk rather than at the local school districts as was done in the past. The Cook County Clerk handles this increase in the volume of filings by using multiple sites in the suburbs as well as the Clerk's central office in Chicago to accept these filings. The Cook County Clerk announced yesterday that the below-listed filing sites will be used for the upcoming election.

For the first day of filing only, December 14, 2020, the hours of filing will be from 8:00 a.m. to 5:00 p.m. and there will be 4 locations where petitions may be filed:

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Orland Park Civic Center 14750 Ravinia Avenue Orland Park, IL	Old Orchard Country Club 700 W. Rand Road Mt. Prospect, IL
Elections Operations Center 1330 S. 54th Avenue Cicero, IL	Cook County Clerk's Office 69 W. Washington, Pedway Level Chicago, IL

For the remaining filing period days (Tuesday, December 15 through Friday, December 18, and Monday, December 21), the hours for filing will be from 9:00 a.m. to 5:00 p.m. and the locations will be limited to the following:

Elections Operations Center 1330 S. 54th Avenue Cicero, IL	Cook County Clerk's Office 69 W. Washington, 5th Floor Chicago, IL

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With respect to the Chicago location, note that the filings on each day after December 14 will be on the 5th Floor rather than on the Pedway Level.

All candidates who are in line by 8 a.m. on December 14 will have their papers stamped with that time. If more than one candidate seeking the same office files at 8 a.m., a lottery will be conducted to determine whose name will appear first on the ballot. Candidates for the same office who file between 4 and 5 p.m. on December 21, the last day of filing, will also be included in a ballot lottery for the last spot on the ballot. Anyone who files between 8:01 a.m. on December 14 and 3:59 p.m. on December 21 will be on the ballot in the order they turned in their nomination paperwork.

If you have any questions, please contact our attorneys in our Flossmoor Office at 708-799-6766 or our Oak Brook Office at 630-928-1200.

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LAWSUIT ALERT: TAKE CAUTION BEFORE RESPONDING TO SPECIAL EDUCATION CLASS ACTION

This is to alert you to a class action lawsuit in which the attorneys for the plaintiff students, although bringing the case in a New York federal court, are attempting to draw in school districts throughout the country, even in Illinois. If you receive notice of this case, we advise you not to respond without first consulting your attorneys.

On July 28, 2020, a group of special education students filed a

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class action lawsuit in the United States District Court for the Southern District of New York. The lawsuit, *J.T. v. DeBlasio, et al.*, focuses primarily on the State of New York's decision to close schools and switch from in-person instruction to remote learning because of the COVID-19 pandemic. The lawsuit alleges that the school closings prevented special education students from receiving a Free Appropriate Public Education ("FAPE") and resulted in special education students receiving less instruction in comparison to general education students. Because the decision to close schools was not made by just New York, the lawsuit names each State Department of Education, as well as nearly every school district in the country. Like all class action lawsuits, the students seek to add all other "similarly situated" students across the country to the list of students currently named as plaintiffs in the lawsuit.

The students' complaint requests various compensatory and punitive damages and includes numerous allegations that students with disabilities were denied procedural and substantive protections under the Individuals with Disabilities Education Act ("IDEA") due to changes in services without notice to and

input from parents. The complaint alleges that the substitution of remote learning for in-person instruction denied students an appropriate education and that students with disabilities did not have the same access to appropriate educational services compared to their general education peers. The complaint also alleges a violation of the IDEA's "stay put" provision, which they argue should afford students with a stable learning environment during an event such as a pandemic. The students claim that if their current placement becomes unavailable, the school district must somehow provide similar services pursuant to the "stay put" provision.

However, on September 2, 2020, the Chief Judge of the New York court issued an Order to Show Cause (a judge's demand to a litigant(s) for information related to the case), which began with the Chief Judge stating that she entertains "serious doubts about numerous procedural aspects of the case." The Order to Show Cause requires the students' attorneys to persuade the court that: (1) the court has jurisdiction over the non-New York school districts; (2) the court's district (as opposed to the other 3 U.S. District Courts in New York) is a proper venue for

the lawsuit; and (3) that all defendants other than the New York City Department of Education are proper defendants because they (allegedly) have made specific, individualized decisions to deprive the students of the services to which they were entitled during the pandemic. If the students' attorneys cannot persuade the court accordingly, the lawsuit will be dismissed, a different federal New York court will hear the case, or certain defendants will be dismissed from the lawsuit, or a combination of the foregoing will occur.

Some Illinois school districts are starting to receive requests to accept or waive service of the lawsuit from the law firm representing the students (the New York-based Brain Injury Rights Group). If you receive one of these requests please notify your attorney immediately, and do not accept or waive service without first consulting with your attorney.

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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

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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-

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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

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about the case's movements and potential exposures within the facility.

- 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

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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.

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    - 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.

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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

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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

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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,

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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.

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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

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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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