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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

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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.
- 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.

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- 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.

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- 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.
- 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,

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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 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

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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; 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

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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.

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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

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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

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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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MAJOR CHANGES IN SCHOOL SPORTS FOR 2020-21 SCHOOL YEAR

On July 29, two major changes were announced for the sporting community due to COVID-19. Governor Pritzker announced a new set of guidance for all youth and adult recreational sports. That guidance placed different sports into specific categories based on the level of risk attributed to them (high, medium, or low). It also set type of play levels that dictated what kind of activity each risk level was permitted to engage in based on the area's emergency medical services region.

The Type of Play Levels are set as follows:

- Level 1: No-contact practices and scrimmages only;
- Level 2: Intra-team scrimmages allowed, with parental consent for minors, no competitive play;
- Level 3: Intra-conference, Intra-EMS-Region, or intra-

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league play/meets; state or league championship game/meets permitted for low-risk sports only;

- Level 4: Tournaments, out-of-conference/league play, multi-team meets, out-of-state play allowed, championship games allowed.

As of this date, high-risk sports are at Level 1, medium-risk sports are at Level 2, and low-risk sports are at Level 3. It is notable that Level 2 requires parental consent for minors to participate in intra-team scrimmages. Districts should be aware that under Illinois law, a parent is generally unable to waive a child's right to potential recovery or cause of action through signing a waiver form. Thus, Districts should be cautious about permitting any activity merely because a parent has signed a waiver. The new guidance also provides information on how participants and spectators should be spaced out in facilities and requirements for face coverings and social distancing.

Later that same day, the IHSA announced drastic changes to the sporting calendar for 2020-21. After consulting the risk level

assigned to the various sports, the IHSA announced a reconfiguration of the seasons. There are four seasons for the 2020-21 calendar (fall, winter, spring, and summer). Those seasons will run August 10 – October 24 (fall), November 16 – February 13 (winter), February 15 – May 1, (spring), and May 3 – June 26 (summer). The only sports that will take place in the fall season are boys/girls golf, girls tennis, boys/girls cross country, and girls swimming and diving. The winter season will include boys/girls basketball, wrestling, boys swimming and diving, cheerleading, dance, boys/girls bowling, and girls gymnastics. Spring sports will include football, boys soccer, girls volleyball, girls badminton, boys gymnastics, and boys/girls polo. The summer season will include baseball, softball, boys/girls track and field, girls soccer, boys volleyball, boys/girls lacrosse, and boys tennis.

The IHSA announcement presents major changes to schools. The sporting calendar extends far later into the summer than normal, each season is abbreviated, and many sports have been moved to a different season. As part of these changes, IHSA also announced that its Phase 4 Return to Play Guidelines will allow an

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additional 20 contact days between September 7 and October 31 for those sports scheduled to be played in winter, spring, or summer.

Each sport will make a determination on how to handle the State Series tournament, but no decisions have been made at this time. All schools, regardless of whether they are conducting learning in-person or through remote means, are eligible to participate, but participation will remain a local decision.

Districts need to consider the impact this may have on their student-athletes, coaching staffs, and facilities. There is a very limited break between winter, spring, and summer seasons.

We will continue to follow any updates on these matters and provide information as it becomes available. If you have any questions, please do not hesitate to contact any of our attorneys.

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FACE COVERINGS AND RETURNING TO SCHOOL

On June 23, 2020, the Illinois State Board of Education ("ISBE"), in conjunction with the Illinois Department of Public Health ("IDPH") issued guidance on the return to in-person learning for the 2020-21 school year. As part of that guidance, ISBE and IDPH require that all individuals over the age of two wear a face covering at all times while in a school building unless they have trouble breathing, are unconscious, are incapacitated, or are otherwise unable to remove the covering without assistance. It is important to note that, even if proper social distancing is maintained, face coverings must be worn while in the building. These requirements lead to additional

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questions for districts.

When are face coverings not required under the guidance?

- When outside and everyone can maintain an appropriate social distance of six feet between each individual.
- When students are eating lunch or when a student is playing an instrument.

How does this requirement impact special education?

- Face coverings should be handled on a case-by-case basis with attention paid to the student's disability and IEP.
- Face shields can be used in limited circumstances where facial visualization is needed and video instruction is unavailable.

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What if a student cannot medically tolerate a face covering?

- ISBE recommends that districts require a physician's note that indicates the specific contraindication to using face coverings.
- If necessary, a face shield can be utilized as long as strict social distancing is maintained.

What if someone claims a religious prohibition to face coverings?

- Schools are required to provide a reasonable accommodation to the sincerely held religious beliefs of its students and employees. We believe that this requirement would also apply to an individual who claims that they cannot wear a face covering for religious reasons. In those situations, the district will need to engage in a discussion for a reasonable accommodation which may require the individual to wear a face shield and maintain strict social

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distance.

What are the implications if a student refuses to wear a face covering without an appropriate excuse?

- Districts should be prepared to amend their policies to permit the assessment of discipline in the situations where a student refuses to wear a face covering
- Many districts that utilize standard PRESS numbering systems will need a revision of policies 7:190 and 8:30.

ISBE continues to update and revise its guidance on returning to in-person instruction. As the rules develop, the attorneys at Hauser, Izzo, Petrarca, Gleason & Stillman, LLC, will continue to inform our clients. If you have any questions, please do not hesitate to contact any of our attorneys with your concerns.

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IDES RELEASES GUIDANCE ON UNEMPLOYMENT BENEFITS FOR NON-PROFESSIONAL STAFF

Last month, Governor Pritzker signed Public Act 101-633 into law. As we previously reported, this new law permits a school district employee who does not provide "instructional, research, or principal administrative services" (e.g. a 9 or 10 month custodian, paraprofessional, cafeteria worker, bus driver, or clerical worker) to receive unemployment benefits for any week of unemployment from March 15, 2020 through December 31, 2020, regardless of whether the employee has a reasonable assurance of returning to work for the 2020-21 school year. A non-professional school employee is therefore able to receive unemployment benefits during summer vacation, even if he or she has been offered employment for the 2020-21 school year, so long as he or she is otherwise eligible for unemployment benefits.

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Similarly, a non-instructional employee may be able to receive benefits during school vacation periods and holiday recesses occurring prior to December 31, 2020, even if he or she is employed.

On June 30, the Illinois Department of Employment Security ("IDES") released guidance interpreting and providing further clarification on how this new law will be implemented and enforced. First, IDES confirms that non-professional staff with a reasonable assurance of future employment may qualify for unemployment benefits. Accordingly, IDES indicates it will not adjudicate an employer's protest premised on its argument that a non-professional employee with a reasonable assurance of employment cannot receive benefits. However, neither the statute nor IDES guidance suggest that other eligibility requirements (such as actively seeking employment) are inapplicable. School districts can still protest unemployment claims on these grounds.

Second, IDES requests that schools fill out an academic

reporting form (which can be found here) listing all administrative and professional staff with a reasonable assurance of returning to school next school year. As professional employees, these individuals cannot receive unemployment benefits between school terms. If a school district submits this form, IDES will not require a separate response protesting a professional employee's request for benefits between school terms.

Third, IDES indicates that educational institutions who contribute to the State's unemployment insurance program will not be charged for benefits, while school districts who make direct unemployment payments will be charged for 50% of the benefits (with an opportunity for full reimbursement under the CARES Act). Notably, the IDES guidance does not reference Public Act 101-633's provision that these charging rates only apply "to the extent that the employer can show that the individual's unemployment for the week was directly or indirectly attributable to COVID-19." To the extent these rates apply, however, IDES indicates that they will be processed in conjunction with the quarterly Statement of Amount Due for

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Benefits Paid (form BEN-118R) for reimbursable employers, or a Statement of Benefit Charges (form BEN-118) for contributing employers.

On July 8 from 10:00-11:00 a.m., IDES and its chief legal counsel are hosting a webinar to review the guidance and answer any related questions.

Our firm will continue to provide updates as they become available. If you have any questions, please contact one of our attorneys.

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IHSA DEVELOPS STAGE 2 RETURN TO PLAY GUIDELINES

The Illinois High School Association ("IHSA") has developed Stage 2 guidelines for student-athletes to begin participating in athletics. These guidelines, developed by the IHSA Sports Medicine Advisory Committee, are awaiting approval by the Illinois Department of Public Health and include the specific requirements schools need to implement moving forward.

As of June 6, 2020, the IHSA's Stage 1 Return to Play Guidelines permit student-athletes to participate in voluntary strength and conditioning sessions. The Stage 1 guidelines encouraged outdoor versus indoor workouts, whenever possible, were developed to help student-athletes begin to reacclimate their bodies to athletics and are not sport-specific. As stated by IHSA Sports Medicine Advisory Committee member Dr. Cynthia R. LeBella, the Stage 1 guidelines were designed "to focus solely on strength and conditioning so that kids can gradually rebuild their

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fitness levels in small peer groups with coach guidance. This will get kids moving again with their peers in the safest way possible, which will have a huge positive impact on their physical and emotional well-being."

The IHSA-proposed Stage 2 guidelines are similar and would continue to open the sessions and permit sport-specific actions and the possibility of contests. Under the proposed Stage 2 guidelines, the following apply:

- Schools should display information regarding symptoms and transmission of COVID-19;
- Summer contact days begin when a school's region reaches Phase 4 of the Restore Illinois Plan (which is currently anticipated to be this Friday, June 26, 2020 for the entire State);
- Athletes should follow the acclimatization schedule for their sports once summer contact days begin;
- Sessions are limited to five hours per day;
- Schools must continue to track which student-athletes are

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participating and log any symptoms that are shown;
- Gatherings of up to 50 individuals are allowed, but thirty feet of space must be maintained between each group of 50 and areas for each group must be clearly delineated;
- When student-athletes are not participating in a drill, practice, or contest, they should maintain social distance;
- If locker rooms are required, capacity should be limited to ensure that all individuals can maintain social distance;
- Students must be encouraged to shower and wash all clothing used during the workouts immediately upon returning home;
- Cleaning schedules should be developed to mitigate the spread of any communicable disease;
- Prior to an individual or group using a facility, all hard surfaces should be wiped down and sanitized;
- Hand sanitizer should be plentiful and available to individuals;
- All weight equipment should be wiped down thoroughly before and after each use;
- No shared towels, clothing or shoes;

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- Shared equipment should be cleaned frequently during practice or competitions;
- Most equipment should be utilized by only one individual and not shared; any equipment that must be shared should be cleaned between uses;
- Spotters for weightlifting are permitted, but lifting requiring spotters should be done in cages with spotters located at either end of the bar;
- Student-athletes are to utilize their own water bottles, but hydration stations may be used to fill each water bottle, providing the station is cleaned after ever practice or contest;
- For any athletic contest, group sizes should be limited to 50 total participants (players, coaches, referees), with additional team members located on the sidelines at a social distance from each other;
- If spectators are permitted at a contest, there must be a specially designated area with capacity limited to 20% of the total capacity;
- Visual markers should be utilized at queuing points to help maintain social distance;
- Concession stands may be open, but must utilize restaurant

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businesses physical workspace guidelines;
- Spectators should be encouraged to bring their own seats;
- No handshakes, high-fives, etc. may occur pre- or post-match;
- No spitting or blowing of the nose without the use of a tissue;
- All participants may choose to wear a mask;
- Officials may wear a mask and use an electronic whistle;

Districts are encouraged to work with the IDPH and their local health departments prior to beginning any sessions to develop appropriate school/sport-specific guidelines.

The IHSA has indicated that, as Illinois moves through the Restore Illinois Plan, it may revisit these requirements. Our firm will continue to monitor these developments. As the IHSA sets out new guidelines and requirements, we will update you. In the meantime, if you have any questions, please do not hesitate to contact any of our attorneys regarding this matter.

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U.S. DOE ISSUES GUIDANCE REGARDING SPECIAL EDUCATION DISPUTE RESOLUTION DURING COVID-19

On June 22, 2020, the Office of Special Education Programs (OSEP) issued Frequently Asked Questions Guidance regarding timelines and procedures for State complaints, resolution meetings, mediations, and special education due process hearings.

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According to OSEP, the sixty day timeline for state complaint resolution may not be categorically extended due to COVID-19, but the State Board of Education may extend timelines on a case by case basis, if, for example, due to the pandemic, the State does not have sufficient staff available to investigate the complaint or if the State is unable to access student records or other specific information necessary to resolve the complaint.

Resolution meetings may be held remotely, with parent agreement. The parties may agree to extend the fifteen calendar day timeline for holding a resolution meeting and the thirty day resolution period. However, the timelines for expedited due process hearings (seven calendar day timeline for a resolution meeting and fifteen calendar day resolution period) may not be extended.

Mediations may be held remotely, with parent agreement, and the parties may agree upon the timeline for mediation.

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Due process hearings may be held remotely if the parent is ensured an impartial hearing. The hearing officer may grant specific extensions of time at the request of either party if the hearing officer documents the length of, and reasons for the extension of time. However, deadlines for expedited due process hearings may not be extended.

If you have questions regarding this Guidance or special education during the COVID-19 pandemic, please call or email one of our attorneys.

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NEW LAW AMENDS SCHOOL CODE TO ADDRESS COVID-19 ISSUES

On June 18, 2020, Governor Pritzker signed Senate Bill 1569 into law as Public Act 101-643. This law makes numerous changes to the Illinois School Code and codifies many school-related provisions from Governor Pritzker's executive orders related to the COVID-19 pandemic. This Priority Briefing highlights some of the law's most impactful sections.

Remote Learning Days and Blended Remote Learning Days

Illinois school districts are familiar with remote learning days and remote learning plan days, having implemented them since March. However, the emergency rules issued by the Illinois State Board of Education authorizing remote learning were only effective for 150 days. Public Act 101-643 amended the School Code to provide for remote learning days and created a new

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hybrid category of instruction known as “blended remote learning days.”

Under this new law, any time the governor declares a disaster due to a public health emergency (a “Public Health Disaster”), the state superintendent of education is permitted to require that schools use remote learning days or blended remote learning days. During remote learning days, schools will provide instruction remotely. During blended remote learning days, schools can utilize a mix of in-person and remote instruction. The law further clarifies that both remote and blended remote learning days, along with up to five remote and blended remote learning plan days, will count as pupil attendance days for school calendar purposes.

Public Act 101-643 further provides that any district with an approved e-learning program may utilize this program for remote and blended remote instruction. Any schools without e-learning programs are required to adopt a remote and blended remote learning day plan which addresses: (1) the accessibility of

remote instruction to all enrolled students; (2) a requirement that remote learning day and blended remote learning day activities reflect applicable state learning standards; (3) a means for students to confer with educators; (4) the unique needs of students in special populations, including special education students, English learners, and homeless students; (5) how the district will take attendance and monitor student participation; and (6) transition from remote to on-site learning.

Finally, the clock-hour requirements for calculating student attendance do not apply during a Public Health Disaster. The state superintendent of education is authorized to establish minimum clock-hour requirements for remote and blended remote learning days.

Student Assessment

Public Act 101-643 provides that student assessment requirements

do not apply if the state board of education receives a waiver from the U.S. Department of Education.

Teacher Evaluations and Remediation Plans

Public Act 101-643 also created multiple changes to the teacher evaluation system during Public Health Disasters. Typically, a teacher whose evaluation is not conducted during a school year when an evaluation is required is automatically deemed "proficient." However, this rule no longer applies to all teachers during a Public Health Disaster. During a Public Health Disaster, absent an alternate rating agreed upon by a school board and union, a tenured teacher who received an "excellent" rating during his or her most recent evaluation will receive another "excellent" rating if his or her evaluation is not performed. A non-tenured teacher in the same situation would still default to "proficient," absent an alternative rating agreed to by the school board and union in writing.

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Public Act 101-643 also amends remediation plan requirements for teachers with “unsatisfactory” ratings during a Public Health Disaster. If in-person instruction is suspended during a Public Health Disaster, remediation plan timelines are waived. Absent contrary written agreement, any remediation plan in effect for more than 45 days prior to the suspension of in-person instruction will resume with in-person instruction. In contrast, a remediation plan in effect for less than 45 days before in-person instruction is suspended will be discontinued, with a new remediation period starting when in-person instruction resumes.

Finally, Public Act 101-643 also pauses the prehearing and hearing requirements for non-honorary dismissals of teachers during a Public Health Disaster, and provides that the clock does not begin to run on these requirements until after the Public Health Disaster is no longer in effect. However, the parties to such proceedings may agree in writing to proceed with prehearing and hearing requirements, and to extend any timelines related to commencing and concluding a hearing.

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Educator Licensing

Educator licensing requirements during Public Health Disasters have also been modified by Public Act 101-643. During a Public Health Disaster, an applicant seeking an educator license is not required to pass a teacher performance assessment (i.e. edTPA). Additionally, during a Public Health Disaster, an applicant may complete student teaching or a school business management internship remotely.

This law also amended licensing and endorsement requirements for certain subsets of teachers. Educator licenses set to expire on June 30, 2020 which are not renewed will be extended for one year and will instead expire on June 30, 2021. Additionally, student teaching and school business management internship requirements are waived for the spring 2020 semester.

Instructional Content

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Public Act 101-643 clarifies that the constitution test may be offered to students remotely.

Pre-School Programs

Pre-school education grant recipients are permitted to provide childcare to children ages 0-12 whose parents are considered “essential workers” as defined in the stay-at-home order previously issued by Governor Pritzker.

Special Education

Public Act 101-643 also makes many changes to special education requirements under the School Code. For an in-depth review of these statutory amendments, please read our separate Priority Briefing titled “P.A. 101-643: Revision of Disclosure Requirements for IEP Meetings and Related Service Logs.” https://petrarcagleason.com/priority-briefings/special-education

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-disclosures-revised-by-school-code-amendments/

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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SPECIAL EDUCATION DISCLOSURES REVISED BY SCHOOL CODE AMENDMENTS

On June 18, 2020, the Governor signed into law SB 1569, which

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includes revisions to the special education disclosure and notification provisions enacted in August 2019. The Public Act is effective immediately.

The Requirement to provide parents certain documents *at least three school days* before an eligibility or IEP meeting *is effective again beginning July 1, 2020.*

Districts must provide parents with "all written material that will be considered by the IEP team at the meeting so that the parent may participate in the meeting as a fully-informed team member."

Written material includes, but is not limited to:

- All evaluations and collected data that will be considered at an eligibility meeting.
- If the student already has an IEP, a copy of all IEP

> components that will be discussed by the IEP team, other than the components related to the educational and related services proposed for the student and the student's educational placement.

The documents must be provided to the parent no later than three school days prior to the student's eligibility meeting or IEP meeting. However, if the IEP meeting is scheduled in three days, after parents waive the ten-day notice requirement, the documents must be provided to the parent as soon as possible.

The new Public Act mandates that districts give parents options for how these materials are provided, including, but not limited to regular mail and allowing the parent to pick the materials up at school.

P.A. 101-643 also revises and clarifies the previous Act's requirements for producing related service logs to parents and for reporting missed related services:

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Related Service Logs are no longer required to be provided at annual reviews but must be made available to parents upon request. Additionally, prior to every eligibility and IEP meeting, districts must inform parents of their right to review and copy their child's student records.

The Act clarifies that related service logs should record the delivery of related services and the minutes provided. Related service logs must be maintained for speech-language services, occupational therapy, physical therapy, social work, counseling, psychology, and nursing services.

The requirement remains that districts must inform parents within 20 school days from the start of the school year or upon the establishment of an IEP of the parent's ability to request a copy of related service logs.

The Act clarifies required reporting if related services are missed and explains that days the student is unavailable for

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service do not constitute missed days of service.

If related services required by the IEP are not provided *within ten school days after the date the service was required to be implemented,* the district, within 3 school days, must provide the parent with notice that services have not yet been provided and must inform the parent of the district's procedures for requesting compensatory services.

"School days" do not include days when the child is absent from school for reasons unrelated to a lack of IEP services and do not include days when the student is absent, or when services are available, but the child is not available.

Regarding Response to Intervention, the Act indicates that districts should use a collaborative team approach that includes regular communication with the parent. The district must provide written notice to the parent of the district's use of scientific, research based interventions or MTSS and must

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provide the parent with all data collected and reviewed by the district in providing the child Response to Intervention.

If you have questions regarding P.A. 101-643 or would like recommendations on implementing these requirements, please contact one of our attorneys.

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