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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 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.

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 distance.

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

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- 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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