

Summary of April 3 Friday Recap Fireside Chat Series

Thank you for joining us for our Friday Recap. Below is a summary of the major topics that we covered. We continue to be amazed by the tremendous amount of grace you have shown during the pandemic and the great work that you are doing. We look forward to continuing to collaborate with you during these unprecedented times, and eventually, to maybe having a “real” fireside chat next fall where we can all get together around a warm bonfire and enjoy good company and conversation.

General Information:

- We have a couple upcoming webinars we want you to be aware of. Darcy is participating with attorneys from other firms in an IAASE webinar on Monday, April 6, at 4:00 PM which will cover special education topics related to COVID-19.
- Additionally, we will be partnering with IASPA on a webinar focusing on labor and employment issues on Wednesday, April 8th at 3:00 PM.

Student Services:

- A couple hours after our call last week, ISBE released guidance on remote learning plans. All districts must have a remote learning plan. If districts already had an e-learning plan they can continue to use that plan. If districts need to develop a plan, ISBE has allowed districts up to five planning days to establish a plan. These planning days can happen all at once or can be spread out if districts need to adapt their plan as they go.
- As a reminder, ISBE has not provided a floor or ceiling for instructional expectations during the State-wide mandatory school closure. Districts should focus on creating a sustainable plan that provides the best educational opportunities they can to prevent academic regression and attempting to ensure that students can pick up where they left off in the fall. It will be important to have a consensus around the minimum expectations to communicate this information to families and set expectations for students. Also, determining what will be provided to all students will also help determine what will be provided for students receiving special education services.
- Districts should work with their unions to develop a plan that is sustainable and reasonable for both students and staff.
- We have received a lot of questions about whether buildings will likely open again before the year is over. Governor Pritzker is only able to make emergency orders 30 days at a time and while we hope we will be able to open buildings again before the year is over, we recommend planning for the buildings to be closed through the rest of the year.
- The remote learning plan guidance document that ISBE released last Friday provided recommendations but did not create any requirements. We think there are some conflicting recommendations and districts should make local determinations and do what is best for students while utilizing the resources you have and focusing on grace, compassion, and care. For instance, it may not be helpful to give a student an

incomplete grade at the end of the semester, based on a situation that is outside the control of a student.

- We've had a lot of clients ask about using online platforms and confidentiality. While you can't ever guarantee total confidentiality, don't be afraid to use online platforms like Zoom, Google Hangouts, or GoToMeeting. Most of these platforms have security measures and we encourage you to become familiar with and use these features.

Special Education:

- We anticipate that ISBE will be issuing special education guidance today and we will review and update you on this guidance as it becomes available. On a Federal landscape, it looks like there is the possibility of some relief coming and we will keep you posted on that as well.
- We are starting to hear from districts that are having some difficult conversations with families. We recognize that during this pandemic families are in crisis and it is as challenging for them as grieving a loss of a loved one. This often results in anger and we know that many of you are feeling this from families. We know these conversations can be difficult and we are here for you.
- While it's still a little too early to determine what will happen with Extended School Year (ESY), we advise districts to prepare like ESY will happen on schedule. We also know there may be some concerns we'll need to address together such as parents asking about whether a teacher or student(s) was positive for COVID-19. We will be there with you to navigate these questions as they come up.
- Many of you have asked whether related service minutes are in addition to the recommended instructional guidelines provided by ISBE. We read the guidance to suggest these minutes are included in these guidelines, but it would also be fine for districts to provide related services on top of these minutes.
- We have also received a lot of questions about how to handle incomplete evaluation components that require face-to-face interaction with a student. We think there are several ways to address this:
 - For students who are already eligible you could revise the domain to say that no additional information is required and determine eligibility based on existing information. Parents would need to be in agreement with this option.
 - Districts can ask parents to consent to delay the evaluation. Since 2006, ISBE has allowed this when teams are looking at a specific learning disability as an area of eligibility and created a [form](#) to memorialize this agreement between parents and the school team. While ISBE hasn't said this form can be used for other eligibility areas, we think this is an option during this pandemic. We have adapted a form for this purpose. Also, on a federal level, OSEP is looking at a 45-day calendar extension once school is back in session.
 - Districts may also send a Prior Written Notice (PWN) letter to parents notifying parents that the district is postponing the evaluation. Please see our recent [Special Education FAQ Newsletter](#) with information on PWN.
- We've also received a lot of questions about whether parents need to consent to the use of an electronic platform. We think this can be handled in several ways, depending on

how districts would like to do this. Districts can provide parents with notice that you can't guarantee complete confidentiality. We have a sample notice in our [Special Education FAQ Newsletter](#). Once parents receive notice, by allowing students to participate they are giving consent. Some districts also choose to have parents provide signed consent and that is fine too.

- We do not think districts need to obtain parent consent for students to receive services under a remote learning plan. We believe you can send the plan to parents and give them the opportunity to review. Some districts will have case managers follow up with a call and then send an email to document the conversation and agreement. We have a sample remote learning plan that does have a place for signature, but we don't think this is required. This is a district decision.
- When determining areas of focus under the remote learning plan, it is appropriate to prioritize goal areas. Districts should make sure parents understand the goals you are focusing on and teachers and related service providers should collect good data.
- When conducting annual reviews, ISBE has provided guidance that parents need to consent for the meeting to be held remotely. With this in mind, districts should be cautious in moving forward with meetings if parents have not consented or do not participate in the meeting.

Contractual Services:

- We have received a lot of questions around paying for transportation services during the pandemic. Transportation companies seem to be asking districts to pay 80% of the typical rate. Some districts have agreed to do so while other districts have not. Additionally, some districts have negotiated additional terms such as a reduction in next year's increase. These are local decisions, but consider:
 - Having an assurance you will have drivers when school resumes
 - Whether the district is obligated to provide transportation in the first place and what the community expectations are around transportation
 - What Board members will want to do.
- The CARES Act states that to the greatest extent practicable, districts will continue to pay employees and contractors if they are using these funds. The use of these funds will be wide-ranging and for some districts COVID relief will sometimes be marginal compared to operational costs.

Employment and Labor:

- We just released a [COVID-19 Employment and Labor FAQ Document](#) earlier this week. Please see our FAQ for additional information on employment and labor topics.
- The timeframes for evaluation and RIFs has not been extended or relaxed.
- If you don't complete a staff member's evaluation, it will automatically default to a "Proficient" rating. We do recommend the summative designation be completed for all staff, even if it says the staff received a proficient rating by default because the evaluation components were not completed prior to the mandatory school closure.

- If a staff member received an excellent rating last year, decisions can be made at a local level to provide these staff members with an excellent rating. However, it is important to work with your union on this.
- If observations and the growth component of evaluations were completed prior to the closure, we recommend completing the rest of the evaluation process remotely. However, if observations and growth measures were not completed prior to the closure, we do not recommend completing these components remotely.
- With support staff, look at the collective bargaining agreement to see if you can complete them and do the best you can to evaluate them fairly. If you cannot complete the evaluation, work with the union to see how best to complete the evaluation. Support staff RIFs must be done before the end of the year. Under certain circumstances you can RIF support staff later because of reduction in student numbers.
- When addressing staff discipline, we recommend you follow your collective bargaining agreement and follow your progressive discipline process, but try to work with the employee a little more than you normally do. For instance, you might give two warnings rather than one. If you are worried about setting a precedent, note that you are giving an additional warning because of the COVID-19 pandemic.
- We know that you are entering the hiring season and we do not see any concerns with conducting virtual interviews. It may be preferable to do an interview via video rather than phone, but both are acceptable.
- Districts have asked whether the Board needs to approve a new hire and this will depend on whether the Board has given the superintendent the authority to hire staff right now without Board approval. Some districts have passed a resolution to give the superintendent these powers during the pandemic and in these instances, the District can hire without Board approval. In instances where the Superintendent does not have this authority, it is perfectly okay to hire someone and have it approved whenever the Board meets next, even if that is 3 months from now. However, we caution Districts to think about how this may impact the seniority list, as the date of Board approval is often used for seniority. It may be important to discuss this with the union to determine how this can be best addressed.
- The Family First Coronavirus Response Act (FFCRA) includes the Emergency Paid Sick Leave Act and Emergency Family Medical Leave Expansion Act. This Act creates new sick leave provisions and expands the FMLA. Employees may have two weeks of sick leave if they meet a qualifying condition and the FMLA was expanded to add an additional 12 weeks in the event that employees have trouble obtaining childcare. In this instance, the first two weeks are unpaid, followed by up to 10 weeks of paid leave at a prorated rate.
- The Department of Labor released 124 pages of regulations yesterday. We will have more information on these regulations next week.
- We have had a lot of questions about the District's obligation to share information when a staff member has been diagnosed with COVID-19. The employee has a right to privacy and generally we are past the 14-day period where staff have had any contact with students so this information does not need to be reported. If you believe you do

have to report a specific situation, please contact your attorney to discuss the specific situation.

Funding

- Although this is not a pressing issue, districts may want to start thinking about the fall out from COVID-19 on funding for the upcoming school years.
- We predict that as the economy slows, there will be a delay in property tax payments from individuals and many commercial entities will not be able to pay their property taxes. Local assessors and elected officials face pressure to fund schools but also to keep jobs in their local area and this may result in one-time reductions in property taxes for commercial entities which will decrease money to the District.
- Districts may also start seeing assessment challenges from individuals and business as well as rate objections come January 1.
- There will also be a revenue problem at the state level next year because of the economy slowing down. The EBF formula was not designed for a depression so EBF may be held flat for the next few years due to the impact of COVID-19.
- One bright spot, the sale of cannabis has not decreased and that should help tax dollars flow in.
- Although these are not issues to face right now, it may be worth thinking about and starting a conversation with the district's financial management company to determine the impact on your district.