

Summary of June 19 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 look forward to recapping the week with you every Friday!

Open Meetings Act:

- SB2135 went into effect June 12 and will allow school board meetings to be conducted remotely when a disaster declaration has been issued for the county in which a district lies. Highlights of the bill include:
 - When the declaration disaster has been declared, the superintendent or Board may decide to hold the meeting remotely but one person (superintendent, chief legal counsel, or another administrator) must be present at the meeting location unless this is unfeasible due to the disaster. This person is supervising the broadcasting of the meeting to make sure anyone who attends can hear.
 - Members of the public body shall be provided the opportunity to meet where the board usually meetings unless this is not feasible.
 - In Phase 3, only 10 individuals can be in the room at a time and this makes a good argument that it is not feasible. During Phase 4, up to 50 individuals can gather so this weakens the argument. Generally, we recommend districts open and have an overflow room if more than 10 individuals attend, or provide information to anyone over the 10-person threshold to be able to listen remotely.
 - There is not a lot of guidance about the notice requirements when you are having a virtual meeting and physical space is open. If you are having a virtual meeting, make this clear in the notice. Additionally, if you have a physical location open, include this in notice, but include in this statement that no board members will be present at the physical location and it will be a virtual meeting.

ISBE Guidance Updates:

- ISBE had a board meeting on Wednesday. It was a packed meeting with a lot of discussion. Most of the public comments were about next year. Interestingly, an educational advocate was given some carved out time, which doesn't usually happen during public comment. She spoke extensively about how, in her opinion, kids will need to make up the time they lost and be in school in the fall. Others also reiterated this message, including a pediatrician who thought kids should go back to school.
- The proposed transition plan was outlined but no specifics were given. However, many Board members asked questions about specifics. Here are some of the highlights:
 - Guidance will include recommendations to bring kids back to school. Districts should be prepared to do in-person learning, remote learning, and a hybrid model.
 - We will be surprised if there is not a requirement for all students over a certain age to wear masks, temperature-taking requirements, and social distancing when feasible. We will hopefully enter Phase 4 next week, which means 50 individuals

in a class. The guidance that is due out shortly will likely say social distancing includes students being 6 feet apart unless not feasible.

- The guidance will also likely include 50 kids on a bus. There was some recognition that having 10 students on a bus is not feasible for most districts to function. There is talk of students needing to wear masks on a bus to allow up to 50 students.
- It sounds like the guidance has been drafted and sent to IDPH and obtaining approval from IDPH tends to result in waiting before the guidance is released.
- At the Board meeting, there were proposed regulations for a culturally inclusive curriculum.
- A resolution to commit to equity and justice was passed.
- The Weekly Superintendent's Message this week stated that the Governor signed the Omnibus Bill. We will focus on this in upcoming weeks. Additionally, ISBE expects to release guidance to open schools within the next week and remote learning guidance by early July.
 - We believe the Phase 4 Guidance will be lengthy and will prioritize the needs of certain students and ask districts to place priority on having these students in school 5 days per week. This includes students with IEPs, English Learners, students experiencing homelessness, other vulnerable student populations, and young children.
 - The five-clock hour day will not be in play if a blended or remote learning model is utilized. There was no discussion about what this would look like, but we think it would likely be similar to recommendations this spring.
 - Masks will likely become a new social norm and requiring students to wear masks will likely be non-negotiable in Phase 4 and maybe even in Phase 5.
 - ISBE is working on Phase 5 guidance but it won't be issued anytime soon.

Employment and Labor:

- The legislature recently passed a new unemployment bill and it is awaiting the Governor's signature. The general rule is that between terms ESPs are not eligible for unemployment. However, the Act was amended so that they may be eligible from March 15 through December 31, 2020. This applies to educational support personnel who are nine or ten month employees who must be considered unemployed. To be considered unemployed, an individual must demonstrate: 1) they are not working, 2) they are willing and able to do so, 3) they are actively seeking employment. There are four likely scenarios:
 - Scenario 1: not working, not getting paid this summer-the individual is eligible if they can demonstrate they are not working, able and willing, and actively seeking work.
 - Scenario 2: not working but getting paid this summer-the individual is eligible if they are not doing work, able and willing, and actively seeking work.
 - Scenario 3: is working (doesn't have to be for district), not getting paid for district over summer-the individual is not eligible because they are doing work.

- Scenario 4: not working, district offers them work and they decline-the individual is likely not eligible because they are not willing to do work even though it was offered or they are not actively seeking employment.
- If you get an unemployment claim, we recommend you challenge this request. If you show that you've offered them work, this can bolster the District's position, even if the work offered is intermittent, as unemployment is measured day-by-day.
- Reminders:
 - Starting July 1, minimum wage will increase from \$9.25 to \$10. This will also continue to increase by a dollar every January.
 - The minimum teacher salary statute also goes into effect this year and requires that salary start at a minimum of approximately \$32,000. This may include Board-paid TRS. This will also increase each year.
 - Starting this year, all districts must provide sexual harassment training. IDHR has created a model training, but districts can also use their own as long as it meets the minimum requirements. This training must be completed by December 31, 2020 and will be an annual requirement.
 - Effective this school year, there is a new requirement that every district must have and implement an appeals process for teachers that get an unsatisfactory rating. Parts of the appeals process will be decided by the PERA Joint Committee, while other elements have to be collectively bargained.
 - Districts should start thinking about convening the PERA Joint Committee and review your evaluation plan to make sure you are in position next spring to post your honorable dismissal list, have summative evaluations ready, have observations completed, etc. in the event instruction occurs remotely.

Court Decisions:

- We have seen courts now start to open up again and there were a lot of big decisions recently.
- This week, the Supreme Court released a lot of important decisions.
 - The Court looked at Title VII, which prohibits discrimination based on sex in the workplace. The Court held this includes sexual orientation. Illinois has had a state prohibition against discrimination due to sexual orientation for some time so this really shouldn't change our practice much. However, we may see this expand to other federal laws such as Title IX.
 - The Court also reviewed a case about DACA. The Court did not rule on the legality of the program, but held that even when we give deference to administrative agencies, their decisions cannot be arbitrary and capricious and they must have a rationale for the decision. Additionally, justifications must be provided upfront, rather than after-the-fact. Justice Roberts was the swing vote and wrote the decision.
- The Seventh Circuit decided a case in which two churches sued Governor Pritzker, arguing that the ban on religious gatherings due to COVID-19 violated their First Amendment rights. The court held that churches are more similar to concerts and movie theaters than essential businesses and churches can "feed the spirit" in other ways

besides gathering in person. This reasoning could also apply to schools for gatherings such as graduation ceremonies.

- An Illinois Appellate Court decision looked at teacher dismissal under Senate Bill 7. The teacher was accused of misconduct, including cheating on standardized testing. A hearing officer recommended not to dismiss her, but the School Board overruled this recommendation and dismissed the teacher. The teacher argued that the Board did not have a legitimate reason to overrule this decision. The Court found the justification was acceptable and upheld the decision to terminate the teacher.
- A few weeks ago we spoke about a 6th Circuit decision where the court held that students had a Constitutional right to receive an education that would allow them to be literate enough to participate in democracy. The Court of Appeals was asked to reconsider the decision en banc (all 16 judges would hear the case). The judges determined they would hear they can again and vacated the original decision. However, before it could be heard en banc, a settlement was reached and the Governor agreed to propose legislation to allocate more funds to education and literacy. This means the court will not hear the case and there is no legal effect from the original decision which was vacated.