

Summary of July 17 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!

General Information:

- There were a lot of rumors yesterday about whether the Governor would be requiring schools to go to remote learning this fall. ISBE has confirmed that this was a rumor. This is a good example of how quickly things can spiral out of control. We want to caution you, as you start to develop communication protocols, to keep this in mind.
- Illinois is now split up into 11 regions.
- Lawsuits: there is a heated exchange of lawsuits coming out of the southern part of the state. A school district has filed suit and yesterday the Governor's office also filed suit asking for an injunctive relief seeking enforcement of the mask order. Lawsuits tend to take a long time. It is important to be informed, but not get distracted by it.
- All districts are getting pretty close to releasing their plans for the fall. Remember to be open and transparent, and have the right conversations with all stakeholder groups, including students. It will also be important to prepare students and parents that in-person instruction will not look the same as what they are used to. We have to prepare students for what they are going to walk into. This might be done through PSAs, walking groups of students through the building, etc.
- As a reminder, it will be important to cite the guidance you are relying on when developing your plans. Districts should also focus on developing draft notification letters and procedures about how they respond to different scenarios this fall. Districts should also plan for full remote learning, as this may be a likely outcome at some point this fall.
- Be sure to have conversations with your liability insurance carrier and Board about what is covered related to COVID-19.

Special Education:

- **Masks:** Schools are already receiving notes from families and doctors indicating students can't wear masks at schools. There is a legitimate group of students and staff who are unable to do so for a variety of reasons. When these notes come in, they should be reviewed in the context of an IEP meeting, 504 meeting, or reviewed by an administrator. Districts should look at the immunization form-there is a section that indicates if there are any diagnoses to see if there is a history of diagnoses. If there is no medical information to support the request, the District can deny it and indicate that if there is any other medical information for the team to review, the team can open up a case study. We have sample letters that districts can use.
 - Masks are becoming a new social norm. Some districts are developing desensitization plans that might include social stories and pictures of adults wearing the mask. The plan might also include a plan for parents to use at home to build up a student's ability to wear the mask in increasing amounts of time, as

well as behavior charts, and other incentives to help the student wear the mask when the school year starts.

- **School Exclusion:** We have prepared a one-page document that applies to both students and staff. Some guidance you are seeing from other law firms includes CDC guidance for healthcare workers. We are not sure this is the direction to go. We think districts should probably use the 10-14 day exclusion periods as determined by IDPH and ISBE. This is a little more conservative approach.
- **Amending the IEP:** There are several schools of thoughts on this. Some firms are indicating not to amend the IEP. We believe districts should amend. This reduces liability, and gives you a safe harbor. Parents will be able to file due process either way, and this provides more protections for the district. In March, districts had to move to remote very quickly. Now, remote learning plans for all students are more robust and if it becomes more permanent, it should be reflected.
- **Social Emotional Supports:** There are a couple COVID-19 relief bills sitting in Congress. The focus is primarily on technology infrastructure and connectivity. The second biggest relief area is on hiring school psychologists, social workers, counselors and other mental health providers for students, staff, and families. We will continue to monitor this and provide updates.

Employment and Labor:

- This week unions have started to communicate across the county. This is partly due to the red/blue divide. The NEA developed a webinar regarding going back to school safely as well as what educators can do to make this happen. Last week the teacher's union in LA recommended keeping schools closed and doing robust remote learning. This seemed to break the ice and we started to see similar stories across the nation, including state-wide in Baltimore. The AFT union president also cast doubt on schools opening remotely. Earlier this week, the CTU also came out asking for an all-remote start to the school year. The statewide IEA has stated they want in-person learning, but wants it to be safe. Districts should assure local unions that they are working to implement the guidance recommended by ISBE and IDPH.
- Unions have started to send letters to districts demanding to bargain.
 - Our advice is not to panic or get upset. Also, remember that local unions are getting pressured from members and higher leadership. Respond with understanding. We can help you respond to these demands to bargain.
 - We have been encouraging you to bring your unions in early. The districts that have been doing this will be in a good position.
 - Listen to unions and give strong consideration to their ideas and work toward a good faith agreement.
 - If you are unable to reach a good faith agreement, you probably have rights under those circumstances. Talk with your legal counsel to discuss your options.
- Over the last few weeks we have been talking about the leave available to staff. We have had questions from districts regarding specific situations. These are some general considerations, but please call us with specific scenarios.

- Create a quick short list of all the leaves that will be available so you can go down the list and see what might apply.
 - COVID sick leave
 - Regular sick leave
 - FMLA
 - COVID FMLA
 - Check CBA for other types of leave that might apply.
- If the district receives a doctor's note, determine if the doctor is asking for an indefinite leave for the teacher. This is not a reasonable accommodation under the ADA. Instead, address reasonable accommodations that can be provided. Under the ADA, leave can be an accommodation if it is for the purpose of recovering from their condition, but that is not what we are really looking at here.
- We have had districts ask how to handle situations where staff need to be excluded for 14 days. The teacher will have to access their sick leave or COVID sick leave. Quarantine is a reason for using sick leave under School Code. Quarantine can be ordered by IDPH or a doctor.
- Some doctors may say a staff member needs an alternate assignment to remote learning instead of in-person learning. This will depend on how the educational program has been structured. If the district is doing 100% in-person learning, the district will not have to grant or create this position. However, if the district is doing remote learning and it can be accommodated, based on that teacher's role, this will likely be a reasonable accommodation. This does not mean that if some teachers are teaching remotely, all staff should be able to do so, as it might not make sense based on the individual's role.