

CLIENT ALERT



Remote and Hybrid Learning Health and Safety Round-Up

As November begins, Illinois schools have all been in session for at least two months in one form or another. Take a bow! Whether you have been in-person, conducted a hybrid model, or provided a fully remote program, take a moment to appreciate this accomplishment! All of the extremely difficult work that you did this summer to determine the “right” plan based on your district’s size, location, demographics, family preferences, staff availability,--and ability to abide by the CDC, IDPH, ISBE, and local health department ever-changing health and safety protocols--has resulted in actual education for students these past several months. It has come with pivots and adaptive pauses, and without many accolades. As we move into the late fall and winter months, your plan will likely need to continue to adapt. As you stay the course, don’t lose track of the following legal issues:

Title IX Training

The U.S. Department of Education did not postpone its August 14, 2020 implementation date for new Title IX sexual harassment grievance procedures. Is your district in compliance? Has your school board updated its board policies to designate a Title IX Coordinator? Have all students, parents, staff, unions, and employment applicants been notified of the Title IX Coordinator’s contact information?

Members of our firm have been providing Title IX training for Title IX Coordinators and other district Title IX personnel. You can access our training modules during in-person sessions or on virtual platforms, and we can tailor our training to your district’s specific needs. We have also prepared a Title IX Toolkit that contains all of the checklists, forms, and notice templates that your Title IX personnel will require to meet their obligations under the federal regulations. If you would like access to the Toolkit, or still need to get your coordinator, investigators, decision-makers, or appellate decision-makers trained, please contact Meganne Trela or Maureen Lemon at (630) 682-0085.

Daily Symptom Screenings and Self-Certification

In the “June 23, 2020 Part 3 Transition Joint Guidance,” ISBE and IDPH established the expectation that all schools conduct temperature and COVID-19 symptom screenings before any staff, student or visitor is permitted to board a school bus or enter a school building. Alternatively, schools may permit daily self-certification and verification by adults, students over the age of 18, and parents/guardians of all students under the age of 18 before individuals are allowed to board a school bus or enter a school building.

Schools that have established protocols for such daily symptom checks or, in the alternative, daily self-certification verifying that the student/adult is symptom-free and has not been in close contact with a positive or probable case have been the most successful at keeping COVID-19 out of their schools. While it may be cumbersome and inconvenient to require a daily check or a daily self-certification, ISBE and IDPH have been steadfast in insisting that the check and verification must both happen on a daily basis. A parent’s certification at the beginning of the school term that the parent ‘promises’ to complete a daily check and will notify the school if their child exhibits any symptoms is not sufficient.

While it would be unsafe to leave a child at a bus stop if the parent had not yet certified that the child is symptom-free, we strongly encourage all schools to establish protocols to ensure that the COVID-19 symptoms check and/or self-certification occur on a daily basis before students are allowed in school buildings.

Close Contacts and IDPH Exclusion Decision-Tree

On Wednesday, October 21, 2020, the CDC expanded its definition of ‘close contact’ to someone who was within six feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period, starting from two days before illness onset (or, for asymptomatic patients, two days prior to the positive test specimen collection) until the time the patient is isolated. This is true even if the close contact occurred outdoors and even if each of those individuals were wearing a face covering during their interactions.

On October 23, 2020, the IDPH issued yet another iteration of its exclusion decision-tree for school districts, which can be found at <https://www.isbe.net/Documents/IDPH-COVID19-Exclusion-Decision-Tree.pdf>. Since the beginning of the school year, IDPH has made allowances for individuals to return to school/work if their symptoms are caused by an alternative diagnosis (e.g., seasonal allergies) with the note of a healthcare provider. Alternatively, symptomatic individuals may return with a negative rapid molecular (rapid PCR) or negative antigen test after 10 days of isolation as long as their symptoms have resolved. If, however, a symptomatic staff member or student is a ‘close contact’ to a confirmed case, the school is experiencing an outbreak, or the local health department is requiring validation due to community transmission levels, the individual must submit a negative Real-Time Reverse Transcriptase Polymerase Chain Reaction (RT-PCR) COVID-19 test to return to school/work. The decision-tree also recognizes that not all local health departments are issuing ‘return from isolation’ letters or ‘return from quarantine’ letters. Schools should remain in constant communication with their local health department to coordinate how/when students and staff who are in isolation or quarantined are cleared to return to school/work.

Interim Guidance on Rapid Point-Of-Care Testing for COVID-19

On October 21, 2020, the IDPH also published its “Interim Guidance on Rapid Point-Of-Care (POC) testing for COVID-19 in Community Settings and Schools,” which can be found at <https://www.isbe.net/Documents/Guidance-Rapid-POC-Test.pdf>. The Guidance was released in conjunction with the state’s distribution of Abbott BinaxNOW tests, one of several rapid POC antigen tests currently available for use. While the RT-PCR molecular test is the ‘gold standard’ for clinically diagnosing COVID-19, POC antigen tests, including the Binax NOW test, usually provide more rapid results than the RT-PCR test (albeit with higher false negative results).

The benefits of using the rapid POC tests in school are that the results may be used to expedite isolation and quarantine requirements, and to inform infection prevention and control measures, thus preventing transmission. The guidance identifies the following prerequisite requirements for schools that wish to use the rapid POC tests on-site:

- Obtaining a Waiver of the federal Clinical Laboratory Improvement Amendments to perform the test
- Establishing an area/room location in which POC testing will be performed.
- Designating a person(s) who will perform POC testing.
- Properly disposing of infectious waste materials created through the testing process.
- Reporting each individual positive and negative test result to state and local public health officials and to the patient/parent/guardian.

If your school district is interested in implementing rapid POC testing on-site, carefully review the Guidance to ensure full compliance with these expectations. As questions arise, please contact one of our school attorneys for assistance.

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OTTOSEN DINOLFO HASENBALG & CASTALDO, LTD.
1804 North Naper Boulevard, Suite 350, Naperville, Illinois 60563
(630) 682-0085 ottosenlaw.com

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