

Frequently Asked Questions on Interpreting the March 2021 ISBE/IDPH Transition Joint Guidance

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Frequently Asked Questions on Interpreting the March 2021 ISBE/IDPH Transition Joint Guidance

Webinar Presented by Joseph J. Perkoski, Todd K. Hayden,
Samuel B. Cavnar and Caroline A. Roselli
March 11, 2021

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Introduction



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Although the information contained herein is considered accurate, it is not, nor should it be construed to be legal advice.
If you have an individual problem or incident that involves a topic covered in this document, please seek
a legal opinion that is based upon the facts of your particular case.

Introduction

- New Transition Joint Guidance issued by ISBE/IDPH (March 9, 2021)
- Through executive orders, guidance must be followed by school districts
- Updated Transition Joint Guidance prevails in the event of any conflict with guidance previously issued by IDPH and ISBE

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Introduction

- Joint guidance supports the return to in-person instruction as soon as practicable in every Illinois community.
- In-person instruction should be prioritized over extracurricular activities, including sports and school events, to minimize risk of transmission in schools and protect in-person learning
- Guidance leaves it up to local control, in consultation with the health department, regarding whether to host safe and socially distanced events such as open houses, registration, prom, graduation ceremonies, and other extracurricular events.

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Introduction

- The 5 Areas of Focus:
 - Social Distancing/Space Limitations
 - Face Coverings
 - Screenings (Symptoms/Saliva)
 - Remote Instruction
 - Risk Management/Tort Immunity

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Social Distancing/Space Limitations



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Social
Distancing/
Space
Limitations

- Does the new IDPH/ISBE guidance allow school districts to automatically reduce social distancing to three feet between students without considering other alternatives?

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Social
Distancing/
Space
Limitations

- May school districts allow less than three feet of social distancing if that is the only way to return to full in-person instruction?



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Social Distancing/ Space Limitations

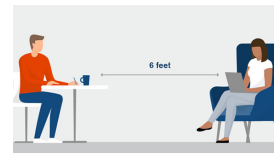
- How should school districts measure “3 to 6 feet” for purposes of laying out classrooms?

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Social Distancing/ Space Limitations

- Are there situations where school districts must still provide at least six feet of social distancing between students and/or staff?



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Social
Distancing/
Space
Limitations

- What are some of the factors school districts should consider when deciding whether to allow students to be seated in the classroom less than six feet apart (but no less than three feet apart) in a specific situation?

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Social
Distancing/
Space
Limitations

- Are there any exceptions to the quarantine protocol for a “close contact”?

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Social Distancing/ Space Limitations

- Based on the new Joint Guidance, are there any changes to the capacity limits in individual rooms or spaces?

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Social Distancing/ Space Limitations

- With this new Joint Guidance encouraging and facilitating the return to school, should school districts also relax their COVID restrictions on outside groups using district facilities (i.e., youth groups, sports programs, community events)?

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Questions?



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Face Coverings



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Face Coverings

- Are face coverings still required for all individuals on school grounds, regardless of vaccination status?

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Face Coverings

- What is allowable as a face covering?



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Face Coverings

- What are the permissible exemptions to the face covering mandate?

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Face Coverings

- If a face covering cannot be worn due to a medical or disability related condition, what documentation is required?
 - In such situations, does social distancing have to be at 6 feet?

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Face Coverings

- Can a school district deny a student access to in-person learning if a student cannot wear a face covering due to a medical or disability related condition?



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Face Coverings

- Should school districts have a face covering policy in place?

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Questions?



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Screenings
(Symptom and
Saliva)



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Screenings (Symptom and Saliva)

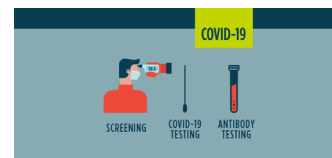
- If school districts are no longer doing symptom screenings and temperature checks at the door, what options do they have for self-certification?

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Screenings (Symptom and Saliva)

- May school districts use or continue to use saliva-based surveillance as a part of the district's regular symptom screening process?



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Screenings (Symptom and Saliva)

- If school districts are no longer going to offer a remote instructional option for all students, can the district mandate saliva screening for students?

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Questions?



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Remote Instruction



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Remote Instruction

- Are school districts still required to offer a remote instruction option for any students and families who request such?

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Remote Instruction

- Since school districts only need to provide a remote option for students at increased risk of severe illness and/or for students who live with individuals who are at increased risk of severe illness, can the school district require medical documentation of the condition that makes them at increased risk of severe illness?

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Remote Instruction

- Do school districts have to offer remote instruction when a student is out of school in quarantine due to a close contact or COVID positive case?



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Remote Instruction

- How does the new guidance around remote instruction impact extended school year offerings and 2021-22 return to school planning?

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Questions?



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Risk Management and Tort Immunity



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Risk Management and Tort Immunity

- Do typical liability insurance policies cover COVID exposure claims against the school district?

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Risk Management and Tort Immunity

- Do school districts, board members and/or district employees have tort immunity for claims arising from their return to school plans?



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Risk Management and Tort Immunity

- What steps should school districts take to reduce potential liability for COVID related claims?

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As managing partner, Joseph Perkoski represents educational institutions and public sector employers with a focus on board and executive leadership. Joseph also represents his clients on a broad range of labor and employment issues including collective bargaining, grievance arbitration and contract interpretation. Joseph has defended employers in unfair labor practice charges before the Illinois Education Labor Relations Board, the Illinois State and Local Labor Relations Boards and the National Labor Relations Board. In addition, Joseph has litigated on behalf of management claims involving civil rights, discrimination, wrongful discharge, and harassment issues.

AWARDS

Illinois Super Lawyers, 2008-2020

RECENT PUBLICATIONS

Contributing author, "Labor Issues in the Transactional Side of the Project," *Construction Law: Transactional Considerations*, IICLE (2017)

Contribution author, "Labor Relations: Contract Administration Including Unfair Labor Practices," *Illinois School Law: Personnel and Student Issues*, IICLE (2010, 2012, and 2015)

"Finding a New Way: Subcontracting Revisited," *UPDATE Magazine*, Illinois ASBO (2011)

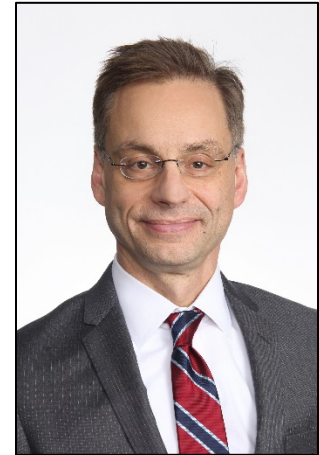
Contributing author, "Labor Issues in the Transactional Side of the Project," *Construction Law – Transaction Practice*, IICLE (2010)

RECENT PRESENTATIONS

Legislative Update: A Review of New Laws Affecting Illinois Community Colleges, Illinois Council of Community College Presidents Retreat (September 2019)

Court Cases and Other Legal Updates for the Higher Education Workplace, Illinois CUPA-HR Spring Conference (May 2019)

Legal Update, ICCCFQ Spring Conference (April 2019)



PRACTICE AREAS

Education Law
Employee Benefits
Labor & Employment
Litigation
Municipal Law
Student Discipline

EDUCATION

J.D., The Ohio State University, The Mortiz College of Law

M.A., The Ohio State University

B.A., *with honors*, The Ohio State University

ADMITTED TO PRACTICE

U.S. Court of Appeals for the Seventh Circuit

U.S. District Court for the Northern District of Illinois

U.S. District Court for the Eastern District of Wisconsin

U.S. District Court for the Western District of Wisconsin

Supreme Court of Illinois

Supreme Court of
Wisconsin

Superior Court for the
District of Columbia

ORGANIZATIONS

American Bar Association

Associated Colleges of
Illinois, Trustee

Council of School
Attorneys

Federal Bar Association

Illinois Association of
School Business Officials

Illinois Bar Association

National School Boards
Association

Wisconsin Bar Association

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Caroline Roselli practices in the areas of special education law and student rights. She counsels school districts and colleges concerning student discipline, student records, policy development, students' rights and other student-related matters. She assists school districts in responding to complaints from the Illinois State Board of Education and Office of Civil Rights and she regularly represents public school districts at IEP meetings, due process hearings, mediations, student expulsion and suspension hearings and residency hearings. Caroline has successfully defended school district decisions and prevailed at due process hearings on issues regarding eligibility, requests for residential placements and denial of FAPE claims.

Caroline has presented at annual conferences for both the Illinois Association for School Boards and for the Illinois Alliance of Administrators of Special Education. She is a co-author of the "Special Education" chapter of the Illinois Institute of Continuing Legal Education's School Law treatise. Caroline also regularly conducts workshops and in-service programs on a variety of special education related topics, including IEP compliance, response to intervention and child find, evaluation procedures, eligibility determinations, autism litigation and discipline of special education students.

AWARDS

Illinois Emerging Lawyer, School Law (2017-2018)

Illinois "Rising Star," Super Lawyers Magazine, Schools and Education Law (2012-2017)

RECENT PUBLICATIONS

"Students Should Know the Consequences of Sexting," *Chicago Daily Law Bulletin* (2015)

"What Does State Law Say about Measles Prevention and Control in Schools?" *Chicago Daily Law Bulletin* (2015)

Contributing author, "Special Education," *Illinois School Law*, IICLE (2010, 2012 and 2015)

RECENT PRESENTATIONS

Due Process: To Go or Not to Go? Special Education Update, Illinois Council of School Attorneys, 33rd Annual Seminar on School Law (November 2019)



PRACTICE AREAS

Education Law
Special Education
Student Discipline

EDUCATION

J.D., *cum laude*, Loyola University Chicago School of Law

B.A., University of Notre Dame

ADMITTED TO PRACTICE

Supreme Court of the United States

U.S. District Court for the Northern District of Illinois

Supreme Court of Illinois

ORGANIZATIONS

Chicago Bar Association

Illinois Bar Association

Illinois Council of School Attorneys

National Council of School Attorneys

Seclusion, Restraint, and Time Out 2020, Illinois Alliance of Administrators of Special Education Region 1 Roundtable (November 2019)

Risk Assessment, Threat Assessments and the Impact on Students with Disabilities, Illinois Alliance of Administrators of Special Education Fall Conference (October 2019)

Legal Issues Related to School Safety and Security: Addressing the Complex Challenges Facing Schools, Large Unit District Association, (May 2019)

Responding to Requests for Homebound Instruction, Illinois Alliance of Administrators of Special Education Webinar (April 2019)

Tips for Preparing Legally Defensible Eligibility Determinations for Specific Learning Disability, Illinois Alliance of Administrators of Special Education Roundtable Presentation (March 2019)

Absenteeism, School Refusal, and Truancy in Special Education: Legal Issues when Students Don't or Can't Come to School, Illinois Alliance of Administrators of Special Education Roundtable Presentation (March 2019)

Escalating Student Behavior and Safety Concerns: Legal Options and Considerations, Illinois Alliance of Administrators of Special Education Winter Conference (February 2019)

The Ins & Outs of Residential Placements: Rules, Regulations, & Recommendations, Illinois Alliance of Administrators of Special Education Fall Conference (October 2018)

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Todd Hayden practices in the areas of school and municipal law. He provides governmental employers with guidance and counseling regarding labor and employment, including employee discipline and termination, board governance, collective bargaining, contract, public finance and transactional matters.

Todd has represented employers in various employer-employee disputes including federal and state litigation, EEOC/Department of Human Rights charges, State Labor Board Proceedings and grievance and arbitration proceedings. Todd has extensive experience in collective bargaining, including unit formation proceedings, negotiations, mediation and interest arbitration. He has performed construction contract reviews, served as local bond counsel and worked on school boundary changes.

Todd is approved by the Illinois State Board of Education to provide school board member training.

AWARDS

Illinois Leading Lawyer, Employment Law: Management, Labor Law: Management, School Law and Governmental, Municipal, Lobbying & Administrative Law, 2015

RECENT PUBLICATIONS

Contributing author, "Civil Rights Litigation," *Illinois School Law*, IICLE (2017)

RECENT PRESENTATIONS

Collective Bargaining for School Board Members and Administrators, IASB/IASA/Illinois ASBO Joint Annual Conference (November 2018)

Employee Free Speech and the Public Employer, HR Source Employment Law Conference at Northern Illinois University (September 2018)

Practical Advice for Maintaining a Harassment Free Workplace, IASA (February 2018)



PRACTICE AREAS

Commercial Transactions
Education Law
Employee Benefits
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Municipal Law
Public Finance & Taxation
Student Discipline

EDUCATION

J.D., *cum laude*, Indiana
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ADMITTED TO PRACTICE

Supreme Court of the
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Trial Bar of the U.S.
District Court for the
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U.S. District Court for the
Northern District of Illinois

Supreme Court of Illinois

ORGANIZATIONS

Illinois Council of School
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Illinois State Bar
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Samuel Cavnar represents school districts, community colleges, municipalities, and various other public entities, along with private clients including owners, developers, general contractors, subcontractors, and various other commercial interests. Sam is an experienced negotiator of commercial and construction-related contracts, and he regularly counsels clients in the areas of board governance, bidding, procurement, tort immunity and risk management. Sam has been appointed Special Assistant State's Attorney in several matters involving construction-related transactions and litigation. Sam has successfully prosecuted and defended numerous lawsuits related to defaults, delays, extras, liquidated damages, design and construction defects, performance issues, non-payment and other similar commercial claims.

AWARDS

Illinois "Rising Star", by Super Lawyers Magazine, in the area of Construction Litigation (2012-2017)

RECENT PUBLICATIONS

"How Public Sector Entities Can Protect Themselves in Premise Liability Cases," *Chicago Daily Law Bulletin* (2018)

"Property Tax Exemption for Charitable Remains Gray Area," *Chicago Daily Law Bulletin* (2017)

Contributing author, "Organization, Finance, and Property," *Illinois School Law*, IICLE (2017)

"School District and Zoning Exemptions," *Chicago Daily Law Bulletin* (2015)

RECENT PRESENTATIONS

Navigating the Public Bidding and Contract Process, IAPD/IPRA Soaring to New Heights Conference (January 2020)

Statutory Requirements and Ethical Considerations for Public Officials, Illinois GFOA Annual Conference (September 2019)



PRACTICE AREAS

Commercial Transactions
Construction Law
Real Estate Development

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J.D., Wayne State
University Law School;
Managing Editor, *The
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Supreme Court of Illinois

Supreme Court of
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American Bar
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Illinois Association of
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