

## **COVID-19 – Immediate Takeaways for School Districts**

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Practice Area: School Law

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COVID-19 is coming to your community. At this point, healthcare experts have suggested that it is not a matter of “if,” but “when.” At the time of drafting, the World Health Organization declared the COVID-19 outbreak to be a pandemic, and Governor Evers declared a public health emergency for Wisconsin. Is your school community prepared for what that may mean? The implications of COVID-19 are having a significant effect on school districts across the nation, especially in light of operational challenges created by the need for student and employee safety, student and employee absences or attempts to come to school despite sickness, student and staff travel considerations (especially with spring break right around the corner), the sheer number of events and activities that take place in school districts, and the potential for mandatory or self-imposed quarantines. Given all of these challenges, school districts should take immediate action to prepare for not the “if,” but the “when.”

The CDC, Wisconsin DHS, DPI, and a number of state and federal agencies across all industries have released guidance in the wake of COVID-19, as well as methods for tracking the latest updates. This guidance from your von Briesen School Law Team focuses on the potential legal implications of the decisions a school district must make.

1. Communicate and Coordinate With Your Health Partners. This includes school nurses and your local health department. Parents, students, and community members are looking to schools for up-to-date and credible information.
2. Revise Pandemic Plans. School pandemic plans may have been updated after the last worldwide outbreak involving H1N1 (swine flu). Updating pandemic plans before they need to be utilized ensures all individuals know their responsibilities and understand the school district's levels of response in the event the plan must be implemented. Consider developing contingency plans for absences of key District employees resulting from quarantine or extended sick leave and how the duties of those employees will be completed in their absence. Cross-train staff as needed to ensure adequate coverage will be available in the event of lengthy absences due to quarantine.
3. Consider Potential Alternative Learning Options. Virtual instruction and pencil-and-paper work packets may allow for continuity of education in the event of school closure, as well as ensuring continuity of individual instruction in the event of individual student absence or quarantine. Be prepared to accommodate students with extended due dates and allowing for electronic submission of assignments.
4. Strengthen Communication Methods. Develop a process for disseminating information to stakeholders, bearing in mind confidentiality and privacy considerations, especially in the event of staff or student exposure or diagnosis or where a school district chooses not to close in light of an exposure. Ensure emergency contact information for students and staff is up-to-date to allow for immediate and efficient communication if necessary.
5. Review, Revise, and Develop Policies Addressing Staff and Student Illness.
  - Student Policies. Student absence policies should include encouraging students to remain at home when they are sick, offer a streamlined, but flexible method for reporting student absences, provide an approach for relaxing truancy proceedings for absences caused by student illness, include consideration of the need for medical certification upon return to school, and eliminate "perfect attendance" awards to disincentivize students from attending school when showing symptoms of illness.
  - Employee Policies. Employee absence policies should include the provision of paid sick leave, encourage staff to remain at home when they are sick, offer flexible and alternative work considerations, mention the potential for imposition of mandatory or self-imposed quarantines, include consideration of the need for medical certification upon return to work, and offer leave time for family care needs, school closings, or other community-based response measures.
6. Provide Options for Virtual Attendance. Develop methods for participation in district meetings, activities, and events in a virtual format. This may extend to staff meetings, student activities, and perhaps school board meetings (of course ensuring compliance with the Open Meetings Law in the process). Consider if virtual attendance options must differ for key District employees or if a uniform set of options should exist. Also consider whether all employees are familiar with and have access to the technology needed to work remotely so that these systems are proactively in place.
7. Staff and Student Travel. Determine how to address the wave of anticipated spring break travel. Will planned and funded school trips be cancelled? If so, has trip insurance been purchased, or will the district assume responsibility for refunding costs? For personal travel, will you require employees and students to report personal travel destinations to the school district, and if travel is to a highly infected location, will the school district impose mandatory quarantines of staff and/or students upon return?
8. Clean and Disinfect. Stating the obvious, ensure diligence in regular cleaning and disinfecting of district facilities and ensure products remain available to students and staff for personal hygiene use. Implement regular messaging to students and staff to promote the preventative best practices.
9. Plan for School Closures. In the event of seemingly inevitable school closures, plan for disruption to education, including how the district will recoup missed time for purposes of ensuring compliance with mandatory state requirements for hours of instruction, how districts will administer education to pupils, how and whether staff will be entitled to compensation during closure, and how to ensure continuity of

will be entitled to compensation during closure, and how to ensure continuity of district operations to allow for an efficient reopening and return to the classroom.

10. Consider the Potential Legal Implications. The potential for worker's compensation claims exposure (yes, it is possible that COVID-19 could lead to an occupational illness claim), implications on the provision of FAPE and education and services provided pursuant to the IDEA and Section 504, impact of closure on students served under the free and reduced lunch program, and the possibility of mandatory quarantines for asymptomatic students and staff are just a few of the legal issues to consider. As well, schools should remain vigilant against discrimination based upon national origin, race, or recent travel. There remains a need to be wary of the stigmatizing effect of associating COVID-19 with a specific population.
11. Implement Social Distancing. In light of the Wisconsin DHS's recommendation to cancel gatherings of more than 250 people, schools may wish to refrain from holding large gatherings such as school assemblies, pep rallies, sporting events, band concerts, or school plays. Consider whether these large gatherings can be postponed to a later date or whether additional precautions can be implemented to allow the events to occur in a different way that minimizes risk. For instance, instead of holding a school assembly with all students at once, consider presenting to smaller groups of students or individual classrooms instead.
12. Prepare Staff to Speak with Students about COVID-19. School staff can positively impact the way students, especially younger students, understand and react to COVID-19. Ensure staff are prepared to have conversations with students that provide honest and accurate information while remaining calm and reassuring.

It is critical that school districts take time to review protocol and policy to best position a school district for the inevitable. Ensuring timely and appropriate communication to stakeholders will minimize disruption to student learning and district operations. Because of the sheer number of unknowns with respect to COVID-19, awareness, proactive decision-making, and a well-informed response will allow for a level of certainty for all district stakeholders.

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