

**A Thoughtful Conversation  
Concerning COVID-19 and  
School Closures**

March 18, 2020

Presented by: von Briesen & Roper, s.c.

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**Agenda**

- Town Hall Style
- Initial topics and questions posed for the following issues:
  - Employment Matters
  - Curriculum and Instruction
  - Pupil Issues
  - School board meetings and duties
  - Child care concerns
- Please submit additional questions throughout the presentation

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**Employment Matters**

- The implications of COVID-19 significantly affects the ability of public employers to continue day to day operations and has disrupted the procurement, production and distribution chains.
- From an operations perspective, districts are challenged with addressing questions concerning employee safety and planning for the provision of mandated services and virtual learning during a time of physical school closure.

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**Employment Matters, con't.**

- If an employee or an immediate family member is quarantined, is the district required to pay the employee for the time the employee is quarantined?
- May an employee utilize sick leave to care for young children when the daycare has closed? Nonexempt versus exempt employees
- If nonexempt staff perform work during the school closure, are we required to track nonexempt employee time and how do we do so?
- May employees use, or be forced to use, paid leave banks?
- What options are available for a district that wants to compensate its hourly employees who are not working during the school closure? Is a district required to pay hourly employees during the closure?

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**Employment Matters, con't.**

- What is the impact of school closings on employees who are currently on worker's comp or FMLA?
- Are unemployment benefits available for employees who are not paid during school closures?
- May an employee file a WC claim for contracting COVID-19 at school?
- Can a district require essential staff to report to district buildings after March 18, 2020, or would this violate the statewide school closure order from the Wisconsin Department of Health Services?

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**FMLA Expansion and Paid Leave (HR 6201)**

- Passed by the House of Representatives, pending in the Senate
- The current version of the bill includes:
  - Expands FMLA to cover all government employers and private sector companies with less than 500 employees. Employee must have been employed for 30 days to be eligible
  - 12 weeks of job protected leave for (1) employee treatment or quarantine, (2) to care for at-risk family member, and (3) to provide child care due to school or day care closing
    - First two weeks are unpaid, next ten paid at two-thirds regular rate
  - 2 weeks of paid sick leave for (1) employee treatment or quarantine, (2) to care for at-risk family member, and (3) to provide child care due to school or day care closing

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### HR 6201- Version before Senate

- Adjustments were made by the House of Representatives late on March 16, 2020 including:
- Expanded FMLA:
  - Eliminates personal health or family care leave from list of eligible events
  - Still available for those unable to work due to school closure/childcare
  - Allows opt out for employers of health care workers and first responders
- Emergency Sick Leave:
  - Allows opt out for employers of health care workers and first responders
  - Gives Labor Secretary authority to issue regulations exempting small businesses which was already in FMLA legislation.

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### Curriculum and Instruction

- Can we continue to provide instruction virtually to our students during a school closure?
  - Digital and traditional learning
  - Provision of technology
  - Waiver of the hours of instruction requirement
- Is a district required to provide special education and related services to students when school is closed?
- How do we manage IEP minutes and SDI if a school closes and moves to digital learning?
  - Is FAPE required?
- Are timelines for conducting annual IEP meetings, evaluations, and/or re-evaluations suspended during a school closure?

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### Pupil Issues

- Should our school district continue to offer breakfast and lunch through the free and reduced meal program?
- Are we required to provide reimbursements to students/parents for school-sponsored student trips that have been cancelled?
- If a student engages in misconduct during the period of the school closure, must we convene an expulsion hearing within 15 days?
- How do we handle expulsions that were scheduled to be held on a date when schools are now closed?

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### Governance

- What is best practice for board meetings during the COVID-19 pandemic?
- May a school board hold a special meeting?
- May a school board hold meetings remotely, such as telephonic or video-conferencing?
- May a school board member attend via alternate participation, such as telephonic or video-conferencing?
- May a school board live-stream a meeting for public viewing versus allowing attendance at the board meeting itself?

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### Child Care Concerns

- Even though many public and private employers have shifted to a "remote" workplace, there are many services that cannot stop during the pandemic.
- Several employers in healthcare, emergency services and government fields have suggested that school buildings and perhaps certain school personnel could be utilized to provide childcare for the children of employees that must work.
- Is a school building appropriately configured for a childcare facility?
- Are school personnel qualified to provide childcare services?
- What DCF regulations apply?
- Have discussions commenced within your community?

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### Communications and Privacy Implications

- What information may a school district disclose to its stakeholders with respect to a student COVID-19 diagnosis?
- What information may a school district disclose to its stakeholders with respect to a staff member COVID-19 diagnosis?

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**Miscellaneous Matters**

- Are we required to close community-accessed facilities, such as gymnasium, weight room, computer labs, etc.?
- May outside groups continue to utilize facilities?
- Are there any copyright concerns with the provision of virtual instruction?
- How does the closure impact elections?
- Are we required to respond to public records requests during the closure?
- What impact will the school closure have on referendum projects and planning?

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**Audience Questions?**



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