

NEW LAW AMENDS SCHOOL CODE TO ADDRESS COVID-19 ISSUES

On June 18, 2020, Governor Pritzker signed Senate Bill 1569 into law as Public Act 101-643. This law makes numerous changes to the Illinois School Code and codifies many school-related provisions from Governor Pritzker's executive orders related to the COVID-19 pandemic. This Priority Briefing highlights some of the law's most impactful sections.

Remote Learning Days and Blended Remote Learning Days

Illinois school districts are familiar with remote learning days and remote learning plan days, having implemented them since March. However, the emergency rules issued by the Illinois State Board of Education authorizing remote learning were only effective for 150 days. Public Act 101-643 amended the School Code to provide for remote learning days and created a new hybrid category of instruction known as "blended remote learning days."

Under this new law, any time the governor declares a disaster due to a public health emergency (a "Public Health Disaster"), the state superintendent of education is permitted to require that schools use remote learning days or blended remote learning days. During remote learning days, schools will provide instruction remotely. During blended remote learning days, schools can utilize a mix of in-person and remote instruction. The law further clarifies that both remote and blended remote learning days, along with up to five remote and blended remote learning plan days, will count as pupil attendance days for school calendar purposes.

Public Act 101-643 further provides that any district with an approved e-learning program may utilize this program for remote and blended remote instruction. Any schools without e-learning programs are required to adopt a remote and blended remote learning day plan which addresses: (1) the accessibility of remote instruction to all enrolled students; (2) a requirement that remote learning day and blended remote learning day activities reflect applicable state learning standards; (3) a means for students to confer with educators; (4) the unique needs of students in special populations, including special education students, English learners, and homeless students; (5) how the district will take attendance and monitor student participation; and (6) transition from remote to on-site learning.

Finally, the clock-hour requirements for calculating student attendance do not apply during a Public Health Disaster. The state superintendent of education is authorized to establish minimum clock-hour requirements for remote and blended remote learning days.

Student Assessment

Public Act 101-643 provides that student assessment requirements do not apply if the state board of education receives a waiver from the U.S. Department of Education.

Teacher Evaluations and Remediation Plans

Public Act 101-643 also created multiple changes to the teacher evaluation system during Public Health Disasters. Typically, a teacher whose evaluation is not conducted during a school year when an evaluation is required is automatically deemed “proficient.” However, this rule no longer applies to all teachers during a Public Health Disaster. During a Public Health Disaster, absent an alternate rating agreed upon by a school board and union, a tenured teacher who received an “excellent” rating during his or her most recent evaluation will receive another “excellent” rating if his or her evaluation is not performed. A non-tenured teacher in the same situation would still default to “proficient,” absent an alternative rating agreed to by the school board and union in writing.

Public Act 101-643 also amends remediation plan requirements for teachers with “unsatisfactory” ratings during a Public Health Disaster. If in-person instruction is suspended during a Public Health Disaster, remediation plan timelines are waived. Absent contrary written agreement, any remediation plan in effect for more than 45 days prior to the suspension of in-person instruction will resume with in-person instruction. In contrast, a remediation plan in effect for less than 45 days before in-person instruction is suspended will be discontinued, with a new remediation period starting when in-person instruction resumes.

Finally, Public Act 101-643 also pauses the prehearing and hearing requirements for non-honorary dismissals of teachers during a Public Health Disaster, and provides that the clock does not begin to run on these requirements until after the Public Health Disaster is no longer in effect. However, the parties to such proceedings may agree in writing to proceed with prehearing and hearing requirements, and to extend any timelines related to commencing and concluding a hearing.

Educator Licensing

Educator licensing requirements during Public Health Disasters have also been modified by Public Act 101-643. During a Public Health Disaster, an applicant seeking an educator license is not required to pass a teacher performance assessment (i.e. edTPA). Additionally, during a Public Health Disaster, an applicant may complete student teaching or a school business management internship remotely.

This law also amended licensing and endorsement requirements for certain subsets of teachers. Educator licenses set to expire on June 30, 2020 which are not renewed will be extended for one year and will instead expire on June 30, 2021. Additionally, student teaching and school business management internship requirements are waived for the spring 2020 semester.

Instructional Content

Public Act 101-643 clarifies that the constitution test may be offered to students remotely.

Pre-School Programs

Pre-school education grant recipients are permitted to provide childcare to children ages 0-12 whose parents are considered “essential workers” as defined in the stay-at-home order previously issued by Governor Pritzker.

Special Education

Public Act 101-643 also makes many changes to special education requirements under the School Code. For an in-depth review of these statutory amendments, please read our separate Priority Briefing titled “P.A. 101-643: Revision of Disclosure Requirements for IEP Meetings and Related Service Logs.” <https://www.hauserizzo.com/priority-briefings/special-education-disclosures-revised-by-school-code-amendments/>

Our office will continue to provide updates as more information becomes available. If you have any questions, please do not hesitate to contact one of our attorneys.

**HAUSER, IZZO, PETRARCA,
GLEASON & STILLMAN, LLC**

ATTORNEYS AT LAW