

In Brief

ISBE RESOLUTION SUPPORTING IN PERSON LEARNING

Upon their unanimous adoption of the Resolution Supporting In-Person Learning, the Illinois State Board of Education (“ISBE”) received numerous questions about the Resolution and its implications. The Resolution Supporting In-Person Learning (“Resolution”), which was adopted on May 19, 2021, did not alter or supplement any existing policy. Instead, it expressed its support for State Superintendent of Education, Dr. Carmen I. Ayala’s anticipated declaration that all schools must resume fully in-person instruction for all student attendance days beginning with the 2021-2022 school year, subject to an exemption for students who meet a strict, two-pronged criteria. ISBE subsequently issued a Question and Answer document (“FAQ”), which can be read [here](#), to clarify the Resolution and its implications on in-person and remote learning.

Dr. Ayala’s forthcoming Declaration, which is subject to favorable public health conditions at the time of its announcement, is expected to take effect at the start of the 2021-2022 school year and state the following:

Beginning with the 2021-2022 school year, all schools must resume fully in-person learning for all student attendance days, provided that, pursuant to 105 ILCS 5/10-30 and 105 ILCS 5/34-18.66, remote instruction be made available for students who are not eligible for a COVID-19 vaccine **and** are under a quarantine order by a local public health department or the Illinois Department of Public Health.

Although the anticipated Declaration would restrict districts to offering remote instruction under Sections 10-30 or 34-18.66 of the School Code only where both conditions apply, the FAQ provides school districts alternative methods through which to offer remote instruction. Under a Remote Educational Program, 105 ILCS 5/10-29, a school district may, by resolution of its school board, establish a remote educational program. This Remote Educational Program is subject to specific requirements, and students may only participate if it will “best serve the student’s individual learning needs.” In addition, a school district may establish a Blended Learning Program, 105 ILCS 5/10-19.05(k)(4), which is subject to local discretion and supervised by an educator licensed under Article 21B. Finally, depending on the circumstances, students who do not meet the criteria for remote learning in the Declaration may meet the criteria for Homebound Services, based on a medical condition which prevent the student from attending school for longer than ten days, pursuant to 105 ILCS 5/14-13.01, 23 Ill Admin. Code 1.520, and 23 Ill Admin. Code 226.300.

ISBE also clarifies that, at this time, students are not required to receive COVID-19 vaccinations prior to returning to in-person instruction. ISBE maintains that a student

becomes eligible for the COVID-19 vaccine in accordance with Centers for Disease Control (“CDC”) guidance, which currently states that all individuals aged 12 and older are eligible.

Finally, ISBE addresses quarantining of students that are close contacts of a positive COVID-19 case. Per CDC guidance and ISBE’s FAQ, a fully vaccinated, asymptomatic student who has been identified as a close contact to a known case of COVID-19 does not need to quarantine.

For questions on how this Resolution effects 2021-2022 return to school planning, contact your Robbins Schwartz attorney.