

## NYSSBA Law Conference on Reopening Schools

7/21/2020

### Safety & Health

- Daily temperature check and screening questionnaire for staff and students are permitted and strongly recommended by DOH
  - Trainings for daily compliance
  - Done at home, before school day, likely digitally
  - If not done at home, then done at school
- All aspects of a school building will have to be reformed and done so carefully to address collateral issues that arise
- NYSED guidance says you need one of three: masks, barriers, or distancing of 6-12 feet
  - At least 2 recommended by attorneys
- Keep cohorts
- Desks facing same direction
- Playgrounds are okay
- Eliminate assemblies, performances, large events, etc.
- Limit visitors
- 9-12 students attend full virtual suggested
- Implementing LRE challenges keeping cohorts
- Health Office: isolated area for COVID (suspected COVID) cases
- Suspected case: contact parent to have student picked up, close off areas where suspected case was for at least 24 hours to be cleaned
- Student can return if not positive...if positive must follow DOH guidelines and then at least 10 days? symptom free to return to school
- Accommodations are permitted for students and staff who have documented medical and mental health conditions...must not be based solely on discomfort with COVID 19
- Family member with risk factors does not legally permit accommodations, but consideration for accommodation is SED recommended
- Trainings need to begin (i.e. hygiene, risk factors, physical distancing, etc...)
- Delayed start with full virtual instruction to provide adequate professional development to staff suggested
- "If you can't open safely- you don't open in-person"
- Who decides: Superintendent and BOE- collectively and in unity
- What happens if student tests positive with other children? Hotline DOH and carry out contact tracing with district and inform parents (cohorts will make this less difficult)
- How do we safely open our schools? This is about life and potentially jeopardizing life.
- [Safety Measures for Reopening PowerPoint](#)

## Special Education

- CSE & 504 team must determine need for compensatory services from school closure once school resumes- recommended that you begin with most severe cases and those who have a history of regression...
- Need evidence of denial of FAPE to receive compensatory service to mitigate what was lost
- Attorney A: “How can schools provide current and compensatory service with reduced funding and staffing?” Attorney B (laughs): “Hope for the best....”
- In school services should be prioritized for students with disabilities
- [Special Education PowerPoint](#)

## Collective Bargaining

- NYSUT MOA Draft (March 2020): Means of virtual learning must be determined by teachers
- Need more flexibility moving forward with continued unforeseen circumstances
- COVID 19 has negatively impacted unsettled contract negotiations (i.e. BEST)
- Rise in mid-term bargaining
- For uncomfortable staff- more PPE, more space, and telework
- Implement what is flexible and fair
- Accommodations are only legally required under ADA with personal medical or mental health condition
- 100% return to in-school presents a “remarkable” challenge- reduced numbers needed to meet DOH & SED requirements
- Hybrid model: might require collective bargaining
- Recommended that districts require masks
- State guidelines present challenge to balance maximizing students in school and flexibility for safety
- “Plans require collaboration and including CB units, it does not require agreement.”
- Distance learning does not require bargaining to occur
- Health and Safety mandates from Executive Order or Dept. of Health do not require bargaining
- Teachers cannot be required to do temperature and symptom check without bargaining
- Virtual and hybrid models could impact APPR
- Livestreaming in-school teacher lessons would be permitted
- [Collective Bargaining & Reopening Schools PowerPoint](#)