



Back to School: 4 Things To Focus On During Summer Break

Insights

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There is no doubt that every school faced unprecedented challenges over the last year. Summer break is a great time for private and independent schools to reset and plan for the next school year and beyond, taking into account some of the lessons learned from the COVID-19 pandemic, changes in the law, and societal changes. This article will discuss some suggestions you should consider as you prepare for the 2021-2022 school year.

1. COVID-19 Protocols and Vaccine

Unfortunately, the COVID-19 pandemic is not going away quite just yet. Schools will need to continue monitoring state, local, and CDC guidelines and continue following good practices to ensure all members of the school community stay safe. You may need to remind some parents of your cooperative parent clause if they begin engaging in negative community actions to pressure the school to relieve some of the processes, such as wearing masks or limiting guests who can access the school.

In addition, with the COVID-19 vaccine becoming more widely available, schools should also consider whether they are going to make the vaccine mandatory or voluntary for its employees. Due to concerns about employee relations issues and legal exposure, most schools are making COVID-19 vaccinations voluntary. If your school is considering a mandatory COVID-19 vaccine requirement, you should also evaluate legal issues. From a legal standpoint, schools must first ensure that they can articulate how the vaccination is job-related and consistent with business necessity. Next, schools must have policies in place that fully inform employees of the vaccine requirement. The policies should also spell out how employees may seek an exemption as an accommodation, based on a medical condition or a sincerely held religious belief. If an employee seeks an exemption on either or both bases, the school must be prepared to engage in, and document, an interactive exchange with the employee to determine whether a reasonable accommodation would enable them to perform their essential job functions without compromising workplace safety. Accommodations might include things like approving a teleworking arrangement or offering a leave of absence, depending on the employee's position with the school. Of course, schools must also consider if there are any local or state laws prohibiting mandatory vaccines. Before making a decision, you should discuss the legal implications with your school attorney.

When it comes to requiring the vaccine for students, you should consider not only the above factors, but also guidelines from the CDC and other authorities, community, and media response.

factors, but also guidelines from the CDC and other authorities, community, and media response to a student mandate, and state and local laws on mandatory vaccination for children. In Florida, for example, schools are not permitted to require that students provide proof of COVID-19 vaccination. Even if a mandatory COVID-19 vaccine for students becomes permissible in your state and your school decides to require the vaccine, you should consider what you will do if a parent refuses for reasons other than a medical or religious exemption. You should consider adding a clause in your enrollment contract or student handbook indicating that the vaccine may be required for on campus instruction.

2. **Distance Learning**

While some are eager to get back to “normal,” others may want distance learning to be here to stay. Your schools have engaged in substantial training and investment to deliver excellent content to those unable to return to school via distance learning. As COVID-19 wanes and your campus returns to normal operations, you may find more requests for accommodation by students and employees to engage in distance learning or working. Before you just say no or freely allow it, you should discuss the legal implications of such processes with counsel.

3. **Handbooks**

COVID-19 drove many changes to school handbooks and policies. If not done already, your school should consider incorporating or updating the following provisions in your handbooks:

- distance learning protocol and expectations, including COPPA provisions;
- recording of image, voice, and identity and the range of the school’s use of such recordings;
- a much more robust communicable disease policy and protocol; and
- tweaks to your social media and boundaries policies to account for more potential outreach and/or one-on-one communications with adults.

4. **Employee Training**

Our world changed substantially over the last year. Therefore, implementing focused and strategic training for your employees is more important than ever. We recommend you consider training all your employees (not just faculty) on student-adult boundaries, and child abuse recognition and reporting. In today’s digital age, this training is more important than ever.

Additionally, 2020 and 2021 highlighted racial inequity and social justice issues in our society. Members of school communities that previously were silent started speaking up about a variety of topics, including how disciplinary processes were handled in the past; how students are selected for important resume-building positions such as student government president; the makeup of the community, including its faculty and administration; and how the school’s curriculum may be viewed as lacking or not properly portraying important historical events. Schools should be prepared to address these issues, including through diversity and inclusion training for all employees; and training for faculty on how to talk about social justice and racial justice issues with students sensitively, consistent with the school’s mission, values, and expectations.

Should you have questions or need assistance in managing any of these issues, you should contact your Fisher Phillips lawyer, the author of this article, or any member of our Education Practice Group. To ensure you stay up to speed with the latest developments, make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information.

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