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# Major Issues Confronting Indiana School Corporations

By **Terry Spradlin**, Executive Director, [tspradlin@isba-ind.org](mailto:tspradlin@isba-ind.org)



## Local Control Prevails in the IN-CLASS COVID-19 Health and Safety Re-entry Guide

The June 5th issuance by the Indiana Department of Education of the guide, “Indiana’s Considerations for Learning and Safe Schools (IN-CLASS): COVID-19 Health and Safety Re-entry Guidance” has prompted many questions from school board members and administrators. In this issue of e-Dition, Julie Slavens, Senior Counsel/Director of Policy Services, provides guidance on calculating seat time for virtual learning and in-classroom instruction for various ADM and instructional time (reporting) requirements.

We are appreciative of the local control this guidance provides. ISBA agrees with Dr. Jennifer McCormick, State Superintendent of Public Instruction, that prevalence of the coronavirus has varied significantly from county to county and regions of the state, and thus, flexibility is necessary.

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We express our gratitude to the IDOE Staff, who worked with the Governor's Office and officials from FSSA and the Indiana State Department of Health (ISDH) in developing the guidance.

As school leaders you are being asked to work cohesively as a board-superintendent team to communicate with authorities having jurisdiction, primarily the county or local health department, and refer to ISDH and the Centers for Disease Control and Prevention (CDC) guidance, to develop your school corporation's re-opening plans for the 2020-2021 School Year. Schools are permitted to reopen on July 1, and there is no indication that the state will intervene to dictate a mandatory start date to the school year. You must move forward with making plans to open schools as previously determined in your adopted school-year calendar, or, act as soon as possible to alter the calendar and notify parents and students of any change.

Developing, adopting, and implementing a school re-opening plan will be hard work and many difficult decisions are before you to make. ISBA will continue to issue weekly guidance on our Coronavirus Resources page, including FAQs and model resolutions, which can be found [HERE](#). We concur with the plan recommendation that relevant stakeholders and local legal counsel should also be consulted to determine which considerations are feasible and the most appropriate way to proceed.

Please let us know how we can continue to support your school board as you move forward with these tremendous endeavors. We will respond to your request for informational resources and guidance as quickly as possible. Finally, ISBA will continue to advocate for funding support to address students' learning needs and the additional costs of meeting the IN-CLASS health and safety guidelines.

## **The Need to Re-examine Equity and Equality in K-12 Education**

**ISBA issued a statement on civil rights and equality in education on Thursday, June 4, and the full statement can be viewed [HERE](#).**

Thank you to the school board members and school administrators who have replied with feedback and recommendations on equity and equality issues that need addressed in our public education system. As mentioned in the statement, ISBA is reflecting on how we as a statewide association – made up of 289 school boards and nearly 1,700 school board members – can optimally support the success of ALL Indiana students by using our authority and influence to eliminate inequities and inequalities where they exist within our schools and school communities. Each Hoosier child unequivocally deserves equal and equitable opportunities to succeed during and after their K-12 education experience. Please share with us via email or letter how we can best support you in your role as school board members to achieve these desired outcomes.

## **School Referenda Results**

Congratulations to the 13 school corporations that passed a total of 16 referenda during the 2020 primary election held officially on June 2 (though more than 600,000 Hoosiers voted via absentee ballot this time). This favorable outcome, an 89% passage rate with just two proposals defeated, was phenomenal and surpassed expectation in face of the difficult economic circumstances prompted by the COVID-19 pandemic. The leadership, committee members, and volunteers of the referendum campaigns who contributed to these highly successful outcomes are to be commended for the tremendous efforts demonstrated. ISBA is planning a summer webinar that will spotlight the effective strategies and lessons learned from these referenda initiatives. Stay tuned for more details regarding this event.

# Board Retreats

By **Dr. Michael Adamson**, Director of Board Services, [madamson@isba-ind.org](mailto:madamson@isba-ind.org)



Retreats have long been recognized as a special time for board members, superintendents, and administrative teams to intentionally separate themselves to spend time reviewing strategic planning purposes, a review of both long and short-term initiatives, reviewing enrollment projections, projecting the impact of particular legislation, staffing and financial needs throughout the corporation, reviews of board and corporation goals, superintendent evaluation reviews, and board training and reviews. That's a long list of possible topics, but it is by no means all-inclusive

Unfortunately, many boards neglect the benefit that setting aside a specific time when they can be particularly focused on these types of discussions or information-sharing. It is true, years ago, a primary benefit to the retreat setting was being away from work, phones and other interruptions and going on a retreat helped ensure that you would be disengaged from day-to-day events that so often interfered with more in-depth discussions. Of course, in today's technological environment, that is not as easily accomplished. However, I still recommend retreats for more in-depth conversations not easily facilitated as part of a regular meeting agenda.

## If you are planning a retreat, or you think you might want to consider that option, your planning needs to include some basic rules:

- **The retreat, whether on-site or remote, must be advertised as an open meeting**, except for any portions of the meeting that include employee evaluations, or other permissible executive session items, such as planning negotiation strategies or reviewing active or pending litigation, etc. Those would have to be advertised as a separate executive session but could be included as a separate meeting at some point during the retreat.
- **Make sure you have access to all technology required** for your presentations, discussions, or the requirements of any guest presenters. Do not take it for granted that every location will be able to meet your requirements. Also, check for any upcharges for providing technology needs.
- **Have a cell-phone protocol** that everyone adheres to and make it clear that everyone needs to follow the rule! Keep your phones on silent, or vibration, and take or return calls during breaks or at mealtimes, not during your meeting time.
- **Create and follow an agenda**. That may seem restrictive, but without a schedule and the discipline to follow it, it is too easy to veer off script and into discussions you are not prepared to have. You may find that discussions you want to have will make excellent agenda items for another retreat.
- **Use laptops and other devices for the work at hand**, not to surf the web or stay caught up on email

The primary reason to schedule a retreat is to have everyone's undivided attention. Obviously, these meetings are best when every board member can commit to attending and staying engaged. It takes a significant amount of planning to ensure that a retreat has every opportunity to accomplish its objectives, but it is a wonderful opportunity to plan, review, and engage in meaningful conversation on topics that do not lend themselves to the regular meeting format.

# School Board Elections: Be Sure You Reside In The Right District

By **Lisa Tanselle**, General Counsel, [ltanselle@isba-ind.org](mailto:ltanselle@isba-ind.org)



The time period for filing petitions of nominations for school board positions is just around the corner. According to the Election Division of the Indiana Secretary of State, the first day for filing a petition of nomination is Wednesday, July 22, 2020, and the last day is Friday, August 21, 2020, by Noon.

**ISBA has published additional information about the election procedures [HERE](#).**

One of the key eligibility requirements for running for school board is residence. IC 3-8-1-34 generally requires an individual to be a resident of the school corporation for at least one year. However, some school board reorganization plans require candidates for certain seats on the school board to reside in a particular district or township within the school corporation. The petition of nomination requires a candidate to verify that he/she resides in the district or township when filing for a particular seat. Recent litigation in our state confirms that it is imperative that any such candidate be a resident of that particular area of the school corporation in order to hold the position.

In *Kite v. Curlin*, 139 N.E.3d 1113 (Ind. App. 2019), two persons filed for the District 2 seat of the governing body of the MSD of Washington Township. Candidate Curlin defeated Candidate Kite. Shortly after the election, however, Candidate Kite discovered that Candidate Curlin was not a resident of District 2.

She was in fact a resident of District 1. Candidate Curlin correctly listed her address on her petition of nomination and represented that she was seeking the District 2 seat as she believed she was a resident of that District. Candidate Kite filed a post-election challenge, asserting that Candidate Curlin was not a resident of District 2 and therefore was not eligible to hold the seat. The trial court found that Candidate Curlin did not misrepresent her residence and truly believed that she was a resident of District 2. Being reluctant to overturn the voters' choice as to the candidates, the trial court determined Candidate Curlin was entitled to hold the board seat. Candidate Kite appealed to the Court of Appeals, which reversed the trial court's decision. The appellate court concluded Candidate Curlin was in fact not a resident of the district and therefore not entitled to hold the board seat. Candidate Curlin petitioned the Indiana Supreme Court for transfer, but the petition was denied. Thus, the appellate court's decision was affirmed. Regrettably for Candidate Curlin, after having served on the school board for nearly 18 months, she was forced to vacate her seat on the school board. Candidate Kite is now serving on the school board.

Thus, an important lesson for anyone running for a seat on a school board that requires the individual to reside in a particular district or township: be sure your home is located in the correct district or township!

# Re-Entry: Virtual Students; ADM; and Instructional Time



By **Julie Slavens**, Senior Counsel and Dir. of Policy Services, [jslavens@isba-ind.org](mailto:jslavens@isba-ind.org)

On June 5, 2020, the Indiana Department of Education (IDOE) issued its guidance to schools on re-entry to school (IN-CLASS) and it provides for health and safety measures schools should consider when coming back to school for the Fall 2020 semester. One item to consider is how instruction will be delivered to students given the required restrictions and that some students will not be able to return to school or feel comfortable in coming back to the physical school building for instruction. Many school corporations are considering as part of their re-entry plan to provide instruction virtually through e-Learning or other methods.

Providing instruction virtually brings into play the definition of a virtual student, which is defined as a student who receives more than fifty percent (50%) of instruction through technology wherein the student is separated from their teacher(s) in time or space or both. Under the basic tuition support formula, a school corporation receives eighty-five percent (85%) of the foundation amount. School administrators have expressed concern if e-Learning is provided upon returning to school, these students would be reported as virtual students, and the basic tuition support to the school would be reduced based upon the formula.

IDOE has added a third reporting option for schools to use in their ADM counts for such students. This code is to be used only for those students who are provided virtual instruction due solely to COVID-19 issues and concerns. IDOE added the new code for this school year's ADM count only for these students as results from many school corporation surveys suggested some parents do not want the students physically in the school building due to safety and health concerns or other related COVID-19 pandemic reasons. Schools providing students with virtual instruction for COVID-19 reasons should count the students as "Virtual due to COVID" for ADM purposes and document the students such status through written statements from the parent or guardian or forms developed by the school and signed by the parent or guardian.

For more information on this topic, see IDOE's memo and FAQ [HERE](#).

IDOE has also provided guidance on the calculation of instructional time for instructional day purposes. State law requires a minimum amount of instructional time for elementary and secondary grade levels. By law, instructional time includes a "reasonable amount" of passing time between classes. The reasonable amount of passing time is not defined in statute or the IDOE regulations. It is determined locally by the school corporation. Given the distance restrictions that will be required upon returning to school, school schedules may be expanded to allow for a longer period between classes so students may safely move to their next classroom. This expanded passing period may count as instructional time as it is determined at the school level. IDOE does not audit instructional time during the day but only monitors the total instructional days provided by a school corporation.

Additional information may be found [HERE](#).

## Upcoming ISBA Events:

**\*ISBA will be offering events for 2020 in a hybrid format - in-person and Zoom webinar.  
More details to come!**

July 22, 2020 - **ISBA School Law Seminar**

Ivy Tech Conference Center / Zoom Webinar

Register [HERE](#).

August 12, 2020 - **ISBA/IAPSS/IASBO Budget & Finance Seminar**

Ivy Tech Conference Center / Zoom Webinar

August 20, 2020 - **ISBA/IAPSS Collective Bargaining Seminar**

Ivy Tech Conference Center / Zoom Webinar

September 28-29, 2020 - **ISBA/IAPSS 71st Annual Fall Conference**

Indiana Convention Center / Zoom Webinar

## ISBA in the News

- » [School boards stand poised to aid in changing times](#)
- » [School Support](#)
- » [PSA: Learning Never Stops \(INDSPRA and ISBA\)](#)

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