Updated Recommendations, Orders and an Attestation Form – Last week Gov. Wolf and the PA Department of Health issued an order that required all school districts to comply with actions intended to arrest the rising numbers of COVID cases in Pennsylvania.

“COVID-19 is rapidly spreading across the state, our country, and the world,” stated a PDE letter sent to school superintendents. “Pennsylvania’s daily case rate is now over 6,000. While we continue to recommend full remote learning in counties with a substantial level of community transmission of COVID-19, we also continue to allow you to determine how to apply these recommendations locally while addressing the health and safety needs of your school community. It is critically important that, at a very minimum, every single school in the state is adhering to the revised face covering order and is taking all appropriate actions when positive cases of COVID-19 are identified among students and school personnel.”

The letter noted that the recommendations on procedures following a positive COVID-19 case in schools has been updated and posted on the PDE website. The letter also stated that “we anticipate making changes to our instructional model guidance to reflect new data and solid consensus within the scientific and educational communities.”

In addition, the letter informed school superintendents that the Secretary of Health had signed an order that “provides authority to PDE to develop and distribute the attestation form and directs a mandatory move to remote learning if a public school entity does not sign the attestation.”

Public school entities must complete an attestation form if the public school entity – in whole or in part – is located in a county that is in the Substantial level of COVID-19 transmission for the second week in a row or more:

- If the public school entity elects to continue in-person instruction as of November 30 while the county in which it is located is under a Substantial disease transmission designation for at least two consecutive weeks, such instruction may not occur until the attestation form is signed by the chief public school administrator and the chair/president of the governing body of the public school entity and submitted via email to PDE today (November 30). The completed form must be emailed to the PDE at RA-EDCONTINUITYOFED@pa.gov and posted on the district’s website.
- If the public school entity does not elect to continue in-person instruction as of November 30, the attestation form must still be signed and submitted via email to PDE today (Nov. 30) indicating such. Please email the completed form to: RA-EDCONTINUITYOFED@pa.gov and posted on the district’s website.
- Any school district that has been in the Substantial Transmission Category for two consecutive weeks and fails to submit the Attestation form will be forced to conduct remote learning and cancel all extra-curricular activities.

In a follow-up letter to school officials, Secretary Rachel Levin said, “You have been asked to protect your school community from an unpredictable virus that science is still trying to understand, mitigate the disproportionate impact these circumstances may have created, build consensus to balance competing demands, and ensure students have access to a quality education; thank you for everything you have done and continue to do.”

Other Updates Orders and Recommendations –

* Order on Face Coverings: On Nov. 17, the Department of Health updated the order on wearing face coverings in indoor and outdoor public places and maintaining social distancing. Also see the PDE’s updated FAQ on face coverings in schools and during athletic events.
* Event Capacity: The DOH updated the maximum capacity calculator for both indoor and outdoor events

Allowable Indoor Rate by Maximum Occupancy
0 - 2,000 people: 10% of Maximum occupancy
2,001 – 10,000 people: 5% of Maximum Occupancy
Over 10,000 people: no events over 500 people

Allowable Outdoor Rate by Maximum Occupancy
0 – 2,000 people: 15% of Maximum Occupancy
2,001 – 10,000 people: 10% of Maximum Occupancy
Over 10,000 people: 5% of Maximum Occupancy up to 2,500 people

* Recommended School Actions Concerning Positive Cases: The PDE updated its recommendations for actions and the FAQ for Pre-K to 12 schools following identification of a case or cases of COVID-19. Click here for the updated information.

Click here to access an updated information page that provides links to all of the new updates and orders.

Questions and Compliance with the Updated Orders – Specific questions asking for clarification on these orders should be directed either to the DOH Rapid Response Center or by email to the PDE (RA-EDCONTINUITYOFED@pa.gov). It is also important that superintendents and school board presidents consult with their district solicitors on these and other compliance issues regarding these orders and recommendations or any other orders and recommendations concerning school action and response. PASA recommends that commissioned officers comply with the state order concerning attestation. While the merit or necessity of this order could be argued, superintendents are obligated to comply as commissioned officers of the state.

PASA Resources – PASA’s web page concerning the Coronavirus and Pandemic Preparation includes links to information about COVID-related issues, along with updated guidance from the PDE, CDC and USDE, and other important updates from the state and federal levels. In addition, PASA has compiled and posted a list of resources to assist school leaders and educators to facilitate conversations and initiatives addressing racism and inequity in schools and communities. Click here for the list.

Resources from PASA Sponsors – PASA is grateful for the ongoing support of our Sponsors at all levels. Although PASA does not promote or endorse any product or service offered by our sponsors, we are pleased to share information they offer that may be helpful to school leaders, particularly concerning return-to-school issues. PASA sponsors have offered free webinars and other unique opportunities and resources to assist PASA members in planning for the school year. A recording of several of these webinars and a list of additional FREE resources and information is available on the PASA website.

Budget, Finance & Funding News...

State Budget – Last week Gov. Wolf signed into law the Fiscal Code and appropriations bills (HB 2536 and SB 1350) that will enact the remaining seven months of the 2020-21 state budget. The governor is scheduled to present his plan for the 2021-22 budget in February.

In Legislative News...

Session Schedule – Both the House and Senate are now adjourned. The 2019-20 session officially ends today. The new session will begin in January.

Limited Liability Bill – Before adjourning on Nov. 20, the House concurred in Senate amendments to HB 1737, a bill that would protect health care providers, schools, businesses and others who followed COVID-19 public health directives from unfair lawsuits for good-faith actions they took during the pandemic. People and entities covered by the legislation would still be responsible for any intentionally wrongful acts and acts considered “reckless.” Most will also be responsible for any “gross negligence.” (Manufactures of personal protective equipment who donated PPEs or sold them at cost are protected against “gross negligence” claims.) Under the legislation, claims of negligence
must be demonstrated by “clear and convincing evidence,” rather than “by a preponderance of evidence.” The legislation does not provide complete immunity for anyone. It simply ensures that if people or entities follow public health directives established by federal or state governments, they will not be held responsible for any harm that allegedly occurred. The Senate also include amendments related to limited liability for economic development agencies. The legislation to extend liability protection passed mostly on party lines with Republicans supporting it and Democrats opposing it.

After HB 1737 was sent to the governor’s office, a spokesperson for Gov. Wolf stated that the governor plans to veto the legislation as being “too broad.” The bill had been backed by groups lobbying for local schools, including PASA, as well as business and healthcare industry groups. Responding to the news, Dr. Mark DiRocco, PASA Executive Director, told The Pittsburgh Post-Gazette, “If Mr. Wolf is vetoing HB 1737, the governor should use an executive order to extend liability protection to schools. We’re very concerned about litigation coming down the road.”

**Bills Signed into Law Last Week**

* **HB 1342**: Vision Screening; passed by the Senate and signed by the Governor as Act 122 of 2020. The act creates prekindergarten vision screenings, and also modifies the current school vision screening schedule by eliminating annual screenings for students after 5th grade, instead requiring them every two years. However, the act does give schools the option of continuing annual vision screenings for students after 5th grade. Also, the act is applicable to school years beginning after the regulations are promulgated and requires a school entity to provide resources to aid parents if they have not been able to get their annual eye exam after a failed screening. The Department of Health will develop informational resources for schools to share with parents.

* **HB 1962**: Retirement System Stress Test; passed as amended in the House, Senate concurred in House amendments, and signed by the Governor as Act 128 of 2020. The act establishes an annual “stress test” for both the State Employees Retirement System and the Public School Employees’ Retirement System, requires those results to be submitted to the governor, General Assembly and the Independent Fiscal Office (IFO) no later than January 1, and requires the IFO to issue a report summarizing those results to the General Assembly no later than March 1 of each year.

* **SB 835**: Funding for Broadband Expansion; Senate concurred in House amendments and signed into law as Act 132 of 2020. The act dedicates state funding to address unserved rural areas of the Commonwealth by establishing a grant program to extend deployment of facilities already providing broadband service, limiting funding to entities who have demonstrated the ability to construct and administer, requiring it to be used in unserved areas only, and necessitating 25-percent of project costs come from their own funds.

* **SB 1216**: Teacher Certification; amended by the Senate, House concurred in Senate amendments, signed into law as Act 136 of 2020. The act amends the School Code with a number of provisions:
  - delays to 2021-22 the graduation requirement for passing the Keystone Exams or the alternative graduation project
  - effective with the 2019-2020 school year and each year that the federal government waives accountability assessments under ESSA, provides that any student taking and passing a Keystone course shall be deemed proficient
  - delays the deadline for the Special Education Funding Commission Report until June 30, 2021
  - grants to the PDE the authority to continue to issue K-8 and 7-12 Special Education Certificates to students finishing those programs
  - grants to the Secretary of Education the authority to do the following:
    - waive requirement to complete the basic skills assessment until June 30, 2021
    - issue temporary provisional teaching certificates good for one year
    - issue an exceptional case permit for Level I Professional Employees through June 30, 2021 who were not able to complete their Level II requirements due to the pandemic
    - issue a temporary teaching certificate to those who were unable to schedule and take a subject matter exam except for physical education, cooperative education, and special education
    - Extend and emergency teaching permit for one year under 22 PA code, section 22.41
    - waive the NIMS and NOCTI Assessments
• waive the Performance Data for Professional Employee Evaluations
• waive Staff Development Requirements under 22 PA Code, Section 14.105 until June 30, 2021
• apply to the federal government for an accountability assessment waiver

PASA did oppose an amendment that nevertheless was included in the final version of the bill. The act requires school districts to provide pupil transportation to non-public schools even if the public school system is not running its transportation system. However, the act does make clear that districts will receive pupil transportation subsidy in 2020-21 equal to or greater than they received in 2019-20. Districts must pay the transportation contractor the amount the contractor would have received for a full school year minus variable costs to receive state transportation subsidy. PDE will develop guidelines in consultation with PASBO, PSBA, and the School Bus Association.

Two amendments that PASA opposed were removed from the SB 1216 prior to final passage. One would have granted to parents the option of opting their children out of the Keystones or PSSA without any specific reason and require the school entity to inform parents that they would have that option. Another amendment would have required school entities to inform any parents, staff, volunteers or contractors in a building or on the same school property as a positive COVID case within 24 hours.

In National News…

**Waivers on Federal Assessment Requirements** – A major test awaits President-elect Joe Biden’s pick for Education secretary. The question is whether to waive federal standardized testing requirements this spring for K-12 schools for a second year or to carry on, despite the pandemic. There’s no easy answer. A host of education and civil rights groups say statewide testing will be important to gauge how much students have fallen behind during the pandemic, particularly for the most vulnerable kids. Even before the coronavirus, “The Nation’s Report Card” revealed children across the country have fallen behind in reading, with the largest drops among lower-performing students. Statewide testing will “give us a snapshot, if an incomplete snapshot, of what happened this year. How close did students get to the standards?” said Brennan McMahon Parton, director of policy and advocacy for the Data Quality Campaign. Teachers unions and standardized test opponents, however, say this isn't the time. “Battle lines are being drawn,” said Bob Schaeffer of FairTest, a group that opposes what it calls the misuse of standardized tests. “The vast majority of parents and teachers think it’s ridiculous to believe that you can get meaningful results from a standardized test in the middle of a pandemic.” Read the rest of the story: “Biden’s Pick for Education Secretary Will Be Tested on Assessments” (from politico.com, 11/23/20).

**Postponing the NAEP** – The head of the U.S. Department of Education's statistical wing has officially postponed the 2021 administration of the Nation's Report Card due to surging COVID-19 rates across the country, meaning it could be until the following year before it administers its next reading and math exams and releases the results. Officially known as the National Assessment of Educational Progress, the test, given to representative samples of students in all 50 states, was scheduled to begin in early 2021. The venerable exam has gone forward, rain or shine, since the 1970s. But as it has with so many other aspects of schooling, the pandemic has wreaked havoc on the NAEP testing schedule. (from Education Week, 11/25/20)

**Survey: School District Challenges** – The challenges schools are facing during the pandemic continue to pile up and expand, putting teachers and school and district leaders in a very difficult spot, suggest the latest results of a survey by the EdWeek Research Center. One of the biggest challenges is finding substitute teachers to fill in for teachers who are absent or on medical leave. The demand is outpacing the supply, and the quality of those applying for substitute teacher positions is a concern in many school districts, the survey found. There is some good news, though. The survey found that there is more interaction between teachers and students in districts using full-time remote learning than there was last spring. Read the rest of the story: “Schools Grapple With Substitute Teacher Shortages, Medical Leave Requests, Survey Finds” (from Education Week, 11/24/20).

On the PASA Calendar…

Dec. 2……….Prof. Dev. Comm. Meeting
Dec. 3……….Superintendent Virtual Session: What’s Now?
Dec. 14-15….PASA/PASBO School Construction Workshop
Dec. 17……..Superintendent Virtual Session: What’s Next?