



Where Minnesota School Boards Learn to Lead

February 24, 2021

Commissioner Roslyn Robertson

WCAC Members:

Dennis Galligan

Jason Bartlett

Robert Ryan

Colin Beere

The Honorable Mike Sundin

Kevin Yakes

Gary Thaden

Joel Smith

Walter Frederickson

The Honorable Paul Utke

Douglas Loon

Margaret Hobbs

Edward Reynoso

Bill McCarthy

Dear Commissioner Robertson and WCAC Committee Members:

We want to thank you for the opportunity to share some of our issues and concerns with respect to HF 37, which was on your agenda today (Wednesday, February 24).

As a leading advocate for public education, our mission is to support, promote, and strengthen the work of our public school boards and public education.

Because of the time limits on our testimony, we believe it is important to share in writing some of our key issues and concerns with respect to HF 37 (as set forth below).

Presumption Change:

1. While we acknowledge that this statute was amended in 2020 to allow a presumption change with respect to certain categories of essential Minnesota workers, we don't see the same practical or legal need for a presumption change for our public school employees. While the exposures and risks are similar, we believe they are – in the bigger picture – materially different (and the science appears to support that).
2. While it seems that no one will be able to definitively say that the risks from COVID-19 to our education employees will ever completely disappear, we believe those risks have become significantly more manageable with vaccines, community conscience, and guidance from our state and federal agencies in terms of providing a safe and secure work environment.
3. With the presumption switch, school districts (and/or their worker's comp insurers) will only be able to appropriately deny an employee COVID-19 workers' compensation claim by proving, or rebutting, that the cause of the positivity was, effectively, from a source other than the workplace. Consequently, establishing a denial will be extraordinarily difficult (even when entirely appropriate) to do.
4. A significant burden shift will take place with this bill. This will now require school districts to spend more time and resources investigating, analyzing, and evaluating the facts and circumstances to rebut the presumption. That will likely raise costs and expenses.

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5. With school districts already experiencing budget constraints due to the shift in pupils and compensatory funding, an additional expense in the workers' compensation area will certainly impact the school district's bottom line.
6. It is also very important to remember that once a workers' compensation claim has been accepted, the medical exposure on that claim is usually accepted for the life of the worker ... which can mean up to 20, 30 or even more years of potential medical obligation.

Retroactive Effect:

1. Workers' compensation compensability already has a lot of difficult risks, variables, and uncertainties. The retroactive effect of this bill will only compound these difficulties. We respectfully suggest that we should be trying to reduce these kinds of risks, variables, and uncertainties in our school environments right now -- not expand them.
2. The cost and duration of many workers' comp claims and injuries are frequently lessened when they are addressed right away, as opposed to months later. The nearly 9-month look back of this bill, will quite possibly: a) impact any rebuttal investigation; b) take away any chance of suggesting supportive medical treatment or case management alternatives; and c) negate any return-to-work or light duty options.
3. We believe we all need to be careful to not presume that the retroactive effective date of this bill may be merely incidental or immaterial in nature. We respectfully ask, if the number of workers' compensation claims reported and the respective amounts paid to date for are nearly the same for COVID-19, why a retroactive date needed?

Other Matters:

1. The bill encompasses all employees regardless of the instructional model. At a minimum, we would suggest that language be added to make it clear that it would only apply to employees or contracted employees who have been working in-person or have had other direct contact with students and families, and not apply to staff who were or are working from home.
2. The "any other person" provision on line 1.15 of HF 37 suggests that perhaps nearly every employee of vendors working with a school district will also be subject to this presumption change. If that is the intent, this adds yet another potential cost and uncertainty for school districts, as quite possibly their vendors may need to raise their prices to cover the potential increases in workers' compensation costs.
3. We generally see this bill as disrupting our norms and making it more difficult for our school districts to "build back better" – and challenges our school boards' ability to govern and manage the district (and potentially reduces student opportunities).

Again, we want to thank you all for your time and for the opportunity to share our issues and concerns with you today. If you have any questions, please contact me.

Sincerely,



Kirk Schneidawind, Executive Director