



*ISBA has been asked by a few of our members about the liability concerns of opening your schools in some capacity before the re-opening criteria has been met. ISBA's legal counsel has created the attached memo which outlines the District/School's liability considerations as Administrators and School Boards look to re-open.*

*The following paragraph from the conclusion of this document is especially informative:*

*"In Idaho, the issues of when, whether, and how to reopen schools following (or during) the pandemic will likely come down to the question of, "What is negligent in the context of reopening, given this unprecedented pandemic?" It is probable, for instance, that reopening during the pendency of the Stay-Home Order will be found to fall below the standard of care for the duty owed, and to support a finding of negligence considering that, in schools, the Order calls for social distancing of six feet per person to be maintained to the greatest extent possible. It is also at least highly possible that, until the curve of overall total cases is flattened, it may be considered negligent to reopen schools. Similarly, if a particular surrounding area, including a county or counties local to a school district, is experiencing community transmission, it may be considered a breach of duty to open local schools. In all decisions made as to whether, and when, to reopen, a district's or charter's board will want to be sure to consider, and make clear it has considered, the financial, political, economic, and social effects of the reopening plan."*

*If you have questions on this document, we suggest you contact legal counsel directly. If you need their contact information, please reach out.*