

# COVID-19 Immunity Bill Signed by Governor



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

The General Assembly has reached the halfway point of the 2021 legislative session and one bill has already been signed by the governor. On February 18, 2021, Governor Holcomb signed Senate Enrolled Act 1, the legislation that provides immunity to school corporations (and several other entities) from civil tort liability for any damages arising from COVID-19, occurring on or after March 1, 2020. The legislation took effect immediately upon the governor's signature but will expire on December 31, 2024. The immunity provided in this legislation is in addition to any other immunity protection that may apply under state or federal law.

The new law defines "arising from COVID-19" as "an injury or harm caused by or resulting from (1) the actual, alleged, or possible exposure to or contraction of COVID-19; or (2) services, treatment, or other actions performed for COVID-19." Additionally, the immunity exists for any damages that occurred

(1) on the premises owned or operated by a school corporation; (2) on any premises on which the school corporation or an employee or agent of the school corporation provided property or services to another person; or (3) during an activity managed, organized, or sponsored by the school corporation. These provisions should shield school corporations from nearly any claim by a student, parent, employee, or patron that he or she was exposed to or contracted COVID-19 while on school corporation property or participating in any activity sponsored by the school corporation.

That being said, the legislation exempts from immunity any actions or omissions on the part of a school corporation that constitute "gross negligence or willful or wanton misconduct." Anyone claiming gross negligence or willful or wanton misconduct must prove this by "clear and convincing evidence." Thus, it is important and will continue to be important for school officials to make decisions that take into consideration guidance from federal, state, and local officials.

Additionally, in an effort to protect workers and their rights as employees, the new law specifies that the immunity provisions do not apply to claims filed under Indiana's laws on worker's compensation, worker's occupational diseases compensation, occupational health and safety, or unemployment compensation.

The ISBA Legislative Committee identified immunity from lawsuits related to COVID-19 as a legislative priority for this session. This legislation represents a significant effort on the part of the governor and the legislative leaders in our state to protect school corporations and their limited financial resources from such lawsuits. Please reach out to your local legislators and thank them for their support of this legislation.