

December 9, 2020

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
The Capitol – Office H-222  
Washington, DC 20515

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
The Capitol – Office S-230  
Washington, DC 20510

The Honorable Kevin McCarthy  
Republican Leader  
U.S. House of Representatives  
The Capitol – Office H-204  
Washington, DC 20515

The Honorable Charles E. Schumer  
Democratic Leader  
U.S. Senate  
The Capitol – Office S-221  
Washington, DC 20510

*Re: Targeted Liability Coverage During the COVID-19 Pandemic*

Dear Speaker Pelosi, Republican Leader McCarthy, Majority Leader McConnell, and Democratic Leader Schumer:

The undersigned organizations, representing the nation's public school leaders, submit this letter to reiterate our support for temporary and targeted liability relief legislation related to the COVID-19 pandemic. We had formally requested such relief earlier this summer. As the pandemic and emergency supplemental negotiations wear on, liability protections are an important piece of a school district's ability to safely and responsibly reopen. Such protections will be critical to businesses, non-profit organizations, and healthcare providers and facilities, as we work to recover from this pandemic. Because opening schools will be crucial to safely and efficiently reopen the economy, it is imperative school districts are afforded the same legal safeguard. Schools must have protection from unfair lawsuits, so they can move forward in providing high-quality instruction for their students and safe facilities for their communities.

School system leaders are hard at work planning and preparing for the eventual reopening of schools and the return to in-person instruction. The logistics and considerations are immense. Transportation, providing social distancing and personal protective equipment (PPE) for staff and students, innovative scheduling and staffing patterns, facility preparedness, sanitation, and deep cleaning are just some of the issues that must be addressed for schools to reopen. As school systems prepare to help the country with this essential step in emerging from the pandemic, they are concerned also that despite their best efforts to follow applicable guidelines, they will be forced to defend against an onslaught of lawsuits. The prospect of such litigation and significant related costs are a very real concern. Any such litigation would disrupt the school district's budget, a budget already likely to have been squeezed in response to the pandemic and related state and local funding cuts. Without a narrow targeted safe harbor for schools that follow applicable guidelines, the fear and very real threat of boundless liability is likely to impede our country's social and economic recovery. For example, while some school districts that self-insure may have sufficient coverage for losses resulting from inclement weather or other acts of God, these districts and their localities may not have the capacity to cover losses due to an unprecedented, exceptional, and emergency circumstance(s) resulting from a massive international pandemic such as COVID-19.

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In the wake of prior crises, Congress came together to pass timely and targeted liability protections for employers with strong bipartisan support.

Lawmakers understood the acute economic threat of lawsuits at moments of maximum economic vulnerability. Public school districts represent the nation's single largest employer. As Congress moves forward in its efforts to enact temporary liability protections against COVID-19 exposure claims for employers that work to follow applicable public health guidelines, it is imperative that public school systems and educational institutions be included in such protections. We believe any protections should be limited in scope and preserve recourse for those harmed by truly bad actors who engage in egregious misconduct.

Now is the time for Congress to take strong action to stop a growing wave of lawsuits from obstructing society's attempts to regain healthy citizens and a strong economy. To meet those important goals, we urge you to include our nation's public school districts in your legislation to provide liability protections to entities during this crisis. Our nation's schools are a large part of this country's critical infrastructure. They are a key contributor to economic growth and the GDP. As the federal government continues to assist states and local governments with COVID-19 recovery, liability protections during this pandemic will help our schools reopen safely, implement the necessary protocols to protect our students and staff, and mitigate additional losses.

We look forward to working with you and others in Congress to quickly address this priority impacting public education.

Sincerely,

AASA, The School Superintendents Association  
Association of Educational Service Agencies  
Association of School Business Officials International  
National Association of Elementary School Principals  
National Association of Secondary School Principals  
National School Boards Association



CC: U.S. Senate  
U.S. House of Representatives