

September 10, 2020

Via Email (valley.elliehausen@franklin.k12.wi.us)

Valley Elliehausen
Director of Human Resources
Franklin Public Schools
8255 W. Forrest Hill Ave.
Franklin, WI 53132

Re: Grievance over Workplace Safety

Dear Ms. Elliehausen,

Please accept this as a formal written grievance under the District's Grievance Procedure (Employee Handbook, Section 1.05 and School Board Policy 4004). This grievance regards the District's Reopening Doors 2020 plan which will create an unsafe workplace for we the undersigned grievants, all other district employees and the Franklin community.

A statement of the pertinent facts surrounding the nature of grievance. This summer the administration proposed and the school board approved the Reopening Doors 2020 plan for the 2020-2021 school year. The plan includes both a full five-day in-person learning option and a virtual learning option for families.

As the beginning of the school year has arrived, it has become obvious that the full five-day in-person learning plan puts the grievants and all other employees, students and the public in great jeopardy of contracting COVID-19 which may result in hospitalization, permanent physical impairments and even death.

Specifically, the following elements of the plan create an unsafe workplace:

- 1) The full in-person return is planned despite an ongoing surge in COVID-19 cases in the community, meaning infected students and staff are very likely to spend substantial time in school buildings and infect a large number of other people.

Wisconsin's Department of Health Services (DHS) tracks COVID-19 activity level by county and region on its website (<https://www.dhs.wisconsin.gov/covid-19/local.htm>). Currently the COVID-19 activity level in Milwaukee County is rated as HIGH on a four-part scale (LOW, MODERATE, MODERATELY HIGH, HIGH) and is not trending downward. Neighboring Racine and Waukesha Counties where many staff live and parents work also have HIGH activity levels.

- 2) The plan does not appear to require the wearing of face masks by all students and staff while in school buildings. It seems for the time being masks are required in compliance with the Governor's Emergency Order #1. But that order is set to expire on September 28 and at that time students may not be required to wear masks.

The research is definitive that mask wearing by infected individuals and uninfected individuals who they come into contact with is an essential safety precaution to prevent the spread of COVID-19.

- 3) The plan repeatedly states the goal of social distancing “to the extent possible” and “whenever possible.” However, the plans are vague as to how this goal can be accomplished and include no measures that obviously would be needed including smaller class sizes, fewer people on buses, cohorting of students at all levels, etc.

Guidance from the CDC, DPI, DHS and other authoritative agencies indicates that at least six feet of social distancing is necessary to help mitigate the spread of COVID-19. As educators very familiar with the settings in our rooms and buildings, we know with absolute certainty that the district plan will not achieve distancing of even three feet, let alone six feet.

- 4) The plan states that students will be kept in cohorts “whenever possible” and only in grades 4K-8. We believe this is a very weak commitment, especially when much available research suggests that the spread of COVID-19 infections is more severe the older students are. Furthermore, teachers of art and music will be expected to travel to many classrooms and buildings coming into contact with literally hundreds of students.

Cohorting by which students and staff have interaction with only a limited number of people is viewed as a critical safety step by DPI, CDC and DHS.

- 5) The plan includes no serious disease surveillance to assure that infected students and staff who may be less symptomatic and unaware they are infected are not in school buildings and interacting with others. Schools are neither checking temperatures nor doing regular testing for COVID-19, but rather rely on families to monitor for the disease.

Families cannot be expected to catch disease symptoms, let alone positive cases, by themselves. Many large employers do temperature checks of all employees who enter their buildings quickly and efficiently. Disease experts generally agree that regular surveillance testing, like they are doing in Major League Baseball, is essential for catching positive cases and preventing further spread of diseases.

- 6) The plan includes nothing on assuring sufficient outside air replacement and filtration of viral material. The district has made some general statements about their intentions to upgrade filters and use other means to assure reduction of viral particles in the air. But they have not committed to having specific measures in place before in-person learning takes place.

Ongoing research has made it very clear that COVID-19 likely spreads through aerosol (tiny) particles that can hover in the air for a long period of time. Many super spreading events are linked to this form of disease transmission.

- 7) The plan implies that the schools will need to be closed to in-person learning at some point due to an outbreak of COVID-19, but it includes no framework or matrix for quick decisions when positive cases are identified or the surge of cases in the community increases further.

Quick decision making to prevent super spreading events at schools critical. In one super spreading event in Israel, a school was shut down when two positive COVID-19 cases were identified. Subsequently they found that over a hundred students in the building tested positive.

The date the incident occurred. The school board first passed a plan in July. But planning and implementation have been evolving since then. In-person learning started this month.

The steps taken to informally resolve the grievance, the individuals involved in the attempted resolution, and the results of such discussion. Many of us have reached out to the administration and board with questions and concerns that have not been addressed. On July 20, the FPEA sent a letter to Superintendent, Judy Mueller, asking for several changes in the reopening plan. No changes have been made other than enforcement of the state mask mandate.

The specific requested remedy. Rectify the plan deficiencies #1-7 noted above. Create a diverse committee of staff including frontline educators to recommend further decisions related to COVID-19.

The workplace safety rule alleged to have been violated, if applicable.

The District violates Wis. Stat. §101.11(1) in doing the following:

- Failing to furnish employment that is safe;
- Failing to provide a place of employment that is safe;
- Failing to furnish and use safety devices and safeguards;
- Failing to adopt and use methods and processes reasonably adequate to render such employment and places of employment safe; and
- Failing to maintain such place of employment or public building as to render it safe.

The District violates Wis. Stat. §101.11(2)(a) in doing the following:

- Requiring any employee to go or be in any employment or place of employment which is not safe;
- Failing to furnish, provide and use safety devices and safeguards;
- Failing to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe;
- Failing to do every other thing reasonably necessary to protect the life, health, safety or welfare of employees and frequenters;
- Maintaining or occupying any place of employment or public building that is not safe; and
- Failing to prepare plans which shall provide for making a place of employment or public building safe.

We look forward to meeting with you in an attempt to resolve this grievance. Please do not hesitate to contact an FPEA representative or Ted Kraig if you have any questions or concerns.

Sincerely,

List of Grievants Attached