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CT Legislative UPDATE

SUMMARY OF 2016

CONNECTICUT LEGISLATIVE ENACTMENTS AFFECTING THE PUBLIC SCHOOLS AND PUBLIC SECTOR EMPLOYERS

The Connecticut General Assembly enacted a number of laws in its 2016 session that will have an impact on Connecticut schools and public sector employers. This summary provides a comprehensive overview of the new laws with commentary. For more detailed information regarding these legislative changes, please contact one of our attorneys.

For additional information and insight into developments in education law, please visit *Education Law Notes*, a Pullman & Comley, LLC school law blog that covers legal matters that pertain to Connecticut public school districts, private schools, colleges and universities at <http://schoollaw.pullcomblog.com/>.

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I. LEGISLATION AFFECTING EDUCATION ISSUES

EDUCATION

Employee Background Checks

Public Act 16-67: AN ACT CONCERNING THE DISCLOSURE OF CERTAIN EDUCATION PERSONNEL RECORDS, CRIMINAL PENALTIES FOR THREATENING IN EDUCATIONAL SETTINGS AND THE EXCLUSION OF A MINOR'S NAME FROM SUMMARY PROCESS COMPLAINTS

This Act, which took effect on July 1, 2016, is the result of the federal “pass the trash” legislation, and adds new requirements for educational employers for positions that would place applicants in direct contact with students. The Act clarifies that charter schools and magnet schools are covered under the statutes requiring school employees to disclose criminal convictions and school employers to conduct certain background checks. The Act provides that regional educational service centers are limited in the fee that they may charge for fingerprinting and background checks. This Act clarifies that substitute teachers and school transportation vehicle drivers are subject to the background check process, and requires school employers to maintain a list of eligible substitute teachers. The Act requires the State Department of Education [“SDE”], upon request, to make available to educational employers information regarding an applicant’s eligibility for employment and whether the SDE is aware if the applicant has been disciplined for a finding of abuse, neglect or sexual misconduct, or has been convicted of a crime or has charges currently pending. The Act specifically provides that no educational employer may hire any applicant (including contracted positions) if the applicant would have direct student contact without first requiring the applicant to: 1) list the contact information for any current or former educational employers (if such employment caused the applicant to have contact with children), 2) provide a release for such records from such employers, along with a release of liability of such employers from releasing such records; and 3) provide a written statement as to whether the applicant has been subject to an abuse, neglect or sexual misconduct investigation (unless the investigation resulted in a finding that all allegations were unsubstantiated), has been disciplined or asked to resign from employment while such an investigation was pending, or ever had a license or certification suspended or revoked due to a pending investigation. This Act further requires the educational employer to conduct a review (using a SDE mandated form) of the employer history of the applicant **by contacting the SDE, and all such**



prior and current educational employers with regard to whether the applicant has a history of such abuse, neglect or sexual misconduct issues. This Act allows for temporary employment (up to 90 days) pending the full investigation/background check of applicants, provided the applicant has provided all mandated information and the employer is unaware of information that would disqualify the applicant from employment.

This Act provides that **no educational employer may enter into any agreement (including a collective bargaining agreement, contract or severance agreement) that would suppress the release of information relating to suspected abuse, neglect or sexual misconduct by a current or former employee.** An educational employer has up to five business days to respond to a request for information by a potential new employer; the Act further requires an educational employer to make at least three telephonic requests (made on three separate days) of each former or current covered employer for such information. The Act specifically (but confusingly) provides that no local or regional board of education may offer employment to an applicant whose prior employment with an educational employer was terminated (or the applicant resigned) if the applicant has been “convicted of a violation” of the abuse and neglect statute, when an allegation of abuse or neglect or sexual assault has been substantiated. This Act imposes (and confirms) the ability of an employer to discipline due to the failure of an applicant to disclose information required under this Act, and removes the requirement for an educational employer, when dismissing a noncertified employee for failure to disclose a prior criminal conviction, to give the employee an opportunity to file a written answer. This Act also increases the criminal penalties for certain school-related threats.

IMPACT: In addition to the obvious changes to the hiring process, this Act may require changes to school district personnel policies.

Student Data Privacy

Public Act 16-189: AN ACT CONCERNING STUDENT DATA PRIVACY

This Act requires contracts entered into, amended or renewed by a local or regional board of education on and after October 1, 2016 that involve the sharing or providing of access to student information, student records or student-generated content [collectively, “such student information”] with a contractor be in writing and contain certain terms. **All such contracts must include the following terms:** 1) A statement that such student information is not the property of or under the control of a contractor; 2) A description of the means by which the board of education may request the deletion of such student information in the possession of the contractor; 3) A statement that the contractor shall not use such student information for any purposes other than those authorized pursuant to the contract; 4) A description of the procedures



by which a student, parent or guardian of a student may review personally identifiable information contained in such student information and correct erroneous information, if any, in such student record; 5) A statement that the contractor shall take actions designed to ensure the security and confidentiality of such student information; 6) A description of the procedures that a contractor will follow to notify the board of education when there has been an unauthorized release, disclosure or acquisition of such student information; 7) A statement that such student information shall not be retained or available to the contractor upon completion of the contracted services unless a student, parent or legal guardian of a student chooses to establish or maintain an electronic account with the contractor for the purpose of storing student-generated content; 8) A statement that the contractor and the board of education shall ensure compliance with the Family Educational Rights and Privacy Act; 9) A statement that the laws of the state of Connecticut shall govern the rights and duties of the contractor and the board of education; and 10) A statement that if any provision of the contract or the application of the contract is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of the contract which can be given effect without the invalid provision or application.

The Act mandates that a contractor shall implement and maintain security procedures and practices designed to protect such student information from unauthorized access, destruction, use, modification or disclosure. The Act further provides that a contractor shall not use 1) such student information for any purposes other than those authorized pursuant to the contract, or 2) personally identifiable information contained in student information to engage in targeted advertising. The Act specifically provides that: 1) Any provision of a contract entered into between a contractor and a board of education on or after October 1, 2016, that conflicts with any provision of this Act shall be void; and 2) any such contract that does not include the listed contract provisions shall be void, provided the board of education has given reasonable notice to the contractor and the contractor has failed within a reasonable time to amend the contract to include the provision required by this Act.

This Act further provides that not later than five business days after executing a contract, a board of education shall provide electronic notice to any student and the parent or guardian of a student affected by the contract. The notice shall: 1) state that the contract has been executed and the date that such contract was executed; 2) provide a brief description of the contract and the purpose of the contract; and 3) state what student information may be collected as a result of the contract. The board of education shall post such notice and the contract on its web site.

This Act also requires that those who operate a web site, online service or mobile application that is used for school purposes and who collect, maintain or use student information 1) implement and



maintain security procedures and practices to protect student information from unauthorized access, destruction, use, modification or disclosure; and 2) delete any student information within a reasonable amount of time after a request by a student, parent, guardian, or board of education has been made. Such operators may not engage in targeted advertising on 1) the operator's web site, online service or mobile app, or 2) any other web site, online service or mobile app if such advertising is based on any student information or persistent unique identifiers that the operator has acquired because of the use of the operator's web site, online service or mobile app for school purposes. Such operators cannot collect, store and use such student information for purposes other than the furtherance of school purposes. This Act further provides that all student-generated content shall be the property of the student or his/her parent or legal guardian.

An operator may use de-identified student information or aggregated student information to: 1) develop or improve the operator's web site, online service or mobile app, or 2) demonstrate or market the effectiveness of the operator's web site, online service or mobile application.

This Act imposes a duty upon contractors (should they discover a breach of security that results in the unauthorized release, disclosure or acquisition of student information) to notify the board of education, conduct an investigation to determine the nature and scope of such unauthorized release, and restore the "reasonable integrity" of the contractor's data system. The board of education is then responsible for notifying electronically the student and the parents or guardians of the student whose student information is involved in such breach of security, and posting such notice on the board's web site. The operator of a web site, online service or mobile app is responsible for notifying the student or the parents or guardians of any security breaches.

Finally, this Act establishes a task force to study issues relating to student data privacy.

IMPACT: In addition to the need to ensure that contracts with vendors contain certain specified terms, this Act may require changes to school district student records policies.

Student Discipline/Truancy

Public Act 16-147: AN ACT CONCERNING THE RECOMMENDATIONS OF THE JUVENILE JUSTICE POLICY AND OVERSIGHT COMMITTEE

This Act makes several changes to **school disciplinary** related laws which would take effect on **August 15, 2017**. Specifically, this Act eliminates the exception to a school's obligation to provide an alternative educational opportunity for students between the ages of 16 and 18 who are involved in certain drug and weapon related conduct. More dramatically, the Act defines an appropriate **alternative educational opportunity** as being equivalent to an "alternative education," which is defined as a school or program



maintained and operated by a school district that is offered to students in a nontraditional setting and addresses their social, emotional, behavioral, and academic needs. This new provision may have the effect of requiring schools to offer five hours per day of schooling for the expelled student, which is a significant increase over the current norm. Schools must also offer an individualized learning plan as part of the alternative education for expelled students.

This Act also impacts the **expulsion hearing process**. It requires that parents receive the written expulsion notice at least five business days before the hearing (except due to “an emergency”). Parenthetically, an emergency is defined as a situation under which the continued presence of the pupil in school poses such a danger to persons or property or such a disruption of the educational process that a hearing may be delayed until a time as soon after the exclusion of such pupil as possible. The Act adds that this written notice must include information with regard to the parents’ and student’s “legal rights,” and specifically provides that an attorney or “other advocate” may represent any student subject to expulsion proceedings. The Act also allows the parent or guardian to postpone the hearing for up to one week to provide time to obtain representation, except in emergencies. The Act does not state anything regarding whether the school district may keep the student out of school should such a postponement lead to the student being out of school in excess of 10 school days.

The Act further provides that a school district must allow a student who committed an expellable offense and who has participated in a “diversionary” program (and who has not yet been expelled) to return to school and the school district may not expel the student for additional time for the offense. A similar statutory provision already exists for students seeking to return to school after having been detained in a juvenile detention center, the Connecticut Juvenile Training School, or any other residential placement. This Act further expands the school’s police reporting requirement with regard to students expelled for possessing a firearm or deadly weapon so as to also apply to expulsions for possessing “dangerous instruments” or martial arts weapons.

This Act also makes changes related to **truancy**. **Effective August 15, 2017**, the Act eliminates a child’s truancy (or “habitual” truancy) as permissible grounds for a “family with service needs” [“FWSN”] complaint. The Act further eliminates related requirements for: 1) school notices on unexcused absences for K-8 students to contain a warning that a specified number of such absences may lead to a FWSN complaint; and 2) superintendents to file a FWSN complaint within 15 calendar days after a parent: a) fails to attend a meeting with school officials to discuss the child’s truancy, or b) otherwise fails to cooperate in addressing the child’s school absences. The Act requires schools with a disproportionately high truancy rate to implement (by August 15, 2018) an approved intervention model, to be developed by the State Department of Education. Such school districts must also then revise their truancy policies to reflect this intervention model.



IMPACT: In the absence of any revisions in the upcoming 2017 legislative session, this Act will impose a significant financial impact upon school districts with respect to the enhanced alternative educational opportunity mandate for expelled students. In addition, this Act (as currently written) will require school districts by the start of the 2017-2018 school year to revise their student discipline and truancy policies.

Magnet Schools

Public Act 16-139: AN ACT CONCERNING MAGNET SCHOOL TUITION

This Act provides that certain magnet school operators (i.e., those who are not operated by regional educational service centers or who are not *Sheff* magnet schools) generally may not charge tuition to sending school districts, **except** that operating boards may charge tuition if: 1) the Commissioner of Education authorizes the proposed tuition charges, and 2) the operating board then gives written notice of the charges to the sending school district by September 1 of the school year prior to the school year in which tuition is to be charged.

Special Act 16-11: AN ACT CONCERNING MAGNET SCHOOL REIMBURSEMENT FOR NEW LONDON

This Act provides a waiver of certain enrollment requirements for eligibility for magnet school grants for New London.

Medical Marijuana for Minors

Public Act 16-23: AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA

This Act, which takes effect on October 1, 2016, permits persons under the age of 18 to be medical marijuana patients. The Act allows a minor to use marijuana for: 1) a terminal illness requiring end-of-life care; 2) an irreversible spinal cord injury with objective neurological indication of intractable spasticity; 3) cerebral palsy; 4) cystic fibrosis; 5) severe epilepsy or uncontrolled intractable seizure disorder; or 6) any other medical condition permitted by the Department of Consumer Protection's regulations. To qualify for medical marijuana use, an unemancipated minor must have written consent from a custodial parent, guardian, or other person with legal custody, indicating that the person has given permission for the minor to use marijuana for a debilitating medical condition, as listed above. The written consent must also state that the person will: 1) serve as the minor's primary caregiver; and 2) control the acquisition and possession of marijuana and any related paraphernalia on the minor's behalf. The person with legal custody of an unemancipated minor must provide the Department of Consumer Protection with a letter from the minor's primary care provider and a physician board certified in an area involved in the treatment of the minor's debilitating condition; the letter must confirm that the



palliative use of marijuana is in the patient's best interest. The Act prohibits: 1) a dispensary from dispensing any marijuana in a smokable, inhalable, or vaporizable form to a minor's primary caregiver; and 2) a physician from issuing a written certification for a minor's marijuana use in a dosage form requiring that marijuana be smoked, inhaled, or vaporized.

The use of medical marijuana is prohibited in the following locations: 1) in a motor bus, school bus or in any other moving vehicle; 2) in the workplace; 3) on any school grounds or any public or private school; 4) in any public place; or 5) in the "presence" of a person under the age of 18, unless such person is a qualifying medical marijuana patient or research program subject. The Act defines "presence" as within the direct line of sight of such use of marijuana, or exposure to second-hand marijuana smoke, or both. The Act also prohibits any use of medical marijuana "that endangers the health or well-being of a person other than the qualifying patient or the primary caregiver."

The medical marijuana laws specifically **prohibit schools** from refusing to enroll any person or discriminating against any student solely on the basis of such person's or student's status as a qualifying medical marijuana patient or primary caregiver. The same laws **prohibit employers** from refusing to hire a person or from discharging, penalizing or threatening an employee solely on the basis of such person's or employee's status as a qualifying medical marijuana patient or primary caregiver. However, these laws explicitly **permit employers** to: 1) prohibit the use of intoxicating substances during work hours; and 2) discipline an employee for being under the influence of intoxicating substances during work hours. Also, these non-discrimination provisions are not to be construed as permitting the use of medical marijuana where otherwise prohibited, and do not trump any federal law/funding requirements.

IMPACT: This Act may require changes to school drug/alcohol and discipline policies. Schools will have to reconcile policy and statutory mandates that prohibit inappropriate drug conduct with the need to avoid punishing students for their status as medical marijuana patients. It also raises questions as to the conflict between accommodating medical marijuana patients and maintaining drug free schools and workplaces.

Teacher Recruitment, Training and Certification

Public Act 16-41: AN ACT CONCERNING THE RECOMMENDATIONS OF THE MINORITY TEACHER RECRUITMENT TASK FORCE

This Act, which took effect on July 1, 2016, will delay the termination of the Minority Teacher Recruitment Task Force until next year, establish a "Minority Teacher Recruitment Policy Oversight Council" within the Department of Education, and require the Department of Education to conduct an annual survey of



students regarding the effectiveness of minority teacher recruitment programs. The Act also includes language making it easier for teachers certified out of state to become certified in Connecticut. A teacher who has taught in another state, territory or possession of the United States, the District of Columbia, or Puerto Rico for a minimum of two years in the preceding ten years can receive a provisional teaching certification in Connecticut if he/she has received at least two satisfactory performance evaluations while teaching in that location and has fulfilled post-preparation assessments as approved by the Commissioner of Education. The Act also waives the requirement to complete a course of study in special education for applicants who have successfully completed a teacher preparation program or an alternate route to certification program in, and hold an appropriate certification from another state, U.S. territory or possession, the District of Columbia or Puerto Rico. Finally, the Act allows the Commissioner of Education to enter into interstate agreements with another state, U.S. territory or possession, the District of Columbia and Puerto Rico to facilitate the certification of teachers coming to Connecticut from those locations and establishes the minimum requirements that must be in such an Agreement.

Public Act 16-92: AN ACT CONCERNING DYSLEXIA

This Act requires (commencing July 1, 2017) that any person applying for a remedial reading, remedial language arts or reading consultant endorsement to have completed a reading and language diagnosis and remediation program that includes supervised practicum hours and instruction in the detection of, and evidence-based structured literacy interventions for, students with dyslexia.

Special Act 16-22: AN ACT CONCERNING TEACHER PREPARATION PROGRAMS

This Act requires the Department of Education and the Office of Higher Education to enter into an agreement with the Council for the Accreditation of Educator Preparation (by no later than December 31, 2016) for the purposes of accrediting and establishing standards for teacher preparation programs at public and private institutions of higher education in the state.

Special Act 16-10: AN ACT CONCERNING A PILOT PROGRAM FOR STUDENTS IN HIGH SCHOOL INTERESTED IN PURSUING A COLLEGE DEGREE IN EDUCATION

This Act establishes an “educator pathways pilot program” to encourage and recruit minority students to pursue a career in education. The following school districts and universities shall be partners in the program: 1) the New Haven and West Haven school districts and Southern Connecticut State University; 2) the New Britain School District and Central Connecticut State University; 3) the Windham School District and Eastern Connecticut State University; and 4) the Danbury School District and Western Connecticut State University.



Tasks Forces and “Technical” Changes

Special Act 16-9: AN ACT ESTABLISHING A TASK FORCE TO STUDY ISSUES RELATING TO THE RECRUITMENT OF MANUFACTURING TEACHERS AND ESTABLISHING A TASK FORCE TO STUDY PROFESSIONAL DEVELOPMENT AND IN-SERVICE TRAINING REQUIREMENTS FOR EDUCATORS

This Act establishes a **task force** to study issues relating to the **recruitment of manufacturing teachers**. The task force is charged with examining: 1) the need for manufacturing teachers at various grade levels; 2) the interest among persons employed in manufacturing in teaching a manufacturing course or program in schools; 3) obstacles and constraints that exist in the law and collective bargaining agreements; or at the technical high schools, Board of Regents for Higher Education and private education institutions, that inhibit the recruitment of persons to teach manufacturing; and 4) potential state actions to improve and increase the recruitment of manufacturing teachers. The task force is to issue a report to the General Assembly by January 1, 2017.

This Act also establishes a **task force** to study issues relating to the **professional development and in-service training requirements for educators**. The task force is charged with examining: 1) how the professional development and in-service training requirements are being implemented by local and regional boards of education; 2) the content prescribed by such requirements; 3) the time required each year to complete these requirements, and, after completing such training and instruction, how much time remains to address issues and topics specific to the school district; 4) the direct and indirect costs of such requirements to boards of education; and 5) the effect such requirements have on the provision of instruction. The task force shall make recommendations for the streamlining of such requirements, including, but not limited to, the frequency and the combination or elimination of duplicative requirements, and shall issue a report to the General Assembly by January 1, 2017.

Public Act 16-163: AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS’ RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE EDUCATION AND EARLY CHILDHOOD STATUTES

This Act, which took effect upon passage (June 9, 2016), purports to make various “technical revisions” to the education and early childhood statutes.

Various/Omnibus Education Revisions

Public Act 16-188: AN ACT CONCERNING EDUCATION ISSUES

This Act, which took effect July 1, 2016, establishes an exemplary veteran’s education program distinction to be awarded to local and regional boards of education that provide students with opportunities to learn about the contributions of veterans. **This Act also requires local and regional boards of**



education to post in each of their schools (in a “conspicuous location”) the telephone number for the Department of Children and Families’ Careline, which could be used to report suspected abuse or neglect of children. The Act further mandates the inclusion of cancer awareness (including but not limited to age and developmentally appropriate instruction in the performance of self-examinations for breast cancer and testicular cancer) in the school health curriculum. The Act also establishes a **task force** to review, streamline and align state policies relating to school climate, bullying, school safety and social emotional learning. Additionally, the Act also contains special provisions that: 1) adjusts the calculation for special education state aid eligibility for the town of Newtown; 2) provides reimbursement to the Franklin School District for special education and transportation costs incurred during the 2011-2012, 2012-13 and 2013-14 school years for any no-nexus student involved in a parent rights termination proceedings; and 3) require the East Haven School District to participate in a pilot program over the next 10 years to transport students whose private schools have closed to equivalent private schools located in New Haven, subject to the usual state reimbursement.

Physical Activity and “Red Ribbon Pass”

Public Act 16-132: AN ACT ESTABLISHING A RED RIBBON PASS PROGRAM

This Act, which took effect on July 1, 2016, establishes a “Red Ribbon PASS Program” to recognize physically active school districts. The State Department of Education [“SDE”] will adopt standards to be used for recognizing those school districts. A school district would submit a request for such recognition by providing 1) the school district’s results on the Connecticut physical fitness assessment, and 2) a demonstration of how the district has satisfied the SDE’s standards. The SDE will make information about the Red Ribbon PASS Program available on its Internet web site. The SDE may accept private donations for this program.

Food Services Management and “Farm to School”

Public Act 16-37: AN ACT CONCERNING CONNECTICUT’S FARM TO SCHOOL PROGRAM

This Act, which takes effect on October 1, 2016, requires a **food service management company** to include in its response to a board of education’s **request for proposal** or **bid solicitation** for a school nutrition program that has been posted to the state contracting portal information as to how the proposal or bid is consistent with the state’s farm to school program and how it facilitates the purchase of products from local farmers. When awarding a contract, the Act requires the board of education to give a preference to the proposal or bid that promotes the purchase of local farm products, all other factors being equal and in accordance with any other applicable laws, regulations, or rules. The Act also requires the State Board of Education by October 1, 2017 to amend state regulations on nutrition standards for school breakfasts and lunches so as to facilitate boards of education in purchasing food from local farmers to support the state’s farm to school program.



Advance Practice Registered Nurses

Public Act 16-39: AN ACT CONCERNING THE AUTHORITY AND RESPONSIBILITIES OF ADVANCED PRACTICE REGISTERED NURSES

This Act allows advanced practice registered nurses ["APRNs"] to certify, sign, or document medical information in certain circumstances that currently require a physician's certification or documentation. Among those circumstances are the following that may be of interest to schools: 1) written orders for a school to administer medication with injectable equipment used to administer glucagon to a student with diabetes that may require prompt treatment in order to protect the student against serious harm or death; 2) written orders for a school to administer antiepileptic medication, including by rectal syringe, to a student with a medically diagnosed epileptic condition that requires prompt treatment in accordance with the student's individual seizure action plan; and 3) written orders stating the need and capability of a child with diabetes to conduct blood glucose self-testing. The relevant provisions take effect on October 1, 2016.

IMPACT: This Act may require changes to school administration of medication policies.

Teacher Retirement System Revisions

Public Act 16-91: AN ACT MAKING CHANGES TO THE TEACHERS' RETIREMENT SYSTEM CONCERNING RETENTION OF THE PLAN D COPARTICIPANT OPTION AFTER DIVORCE, CREDITING INTEREST ON CERTAIN INACTIVE, NONVESTED MEMBERS, REEMPLOYMENT OF RETIRED TEACHERS AND ELIMINATING CERTAIN OBSOLETE LANGUAGE

This Act, which took effect on July 1, 2016, allows members of the Teachers' Retirement System ["TRS"] to maintain the co-participant retirement payment option after divorce. This Act reduces the period of time the TRS credits interest on non-vested members' contributions from 25 years to 10 years. This Act also provides the following revisions with regard to the ability of retired employees to exceed the current 45% reemployed retiree salary limit: 1) it waives the 45% earnings cap for retired teachers re-employed in an "alliance schools district" who have 34 or more years of credited service and who were serving as a teacher in that district as of July 1, 2015; 2) it waives the 45% earnings cap for teachers who in essence choose to temporarily "un-retire" and suspend their receipt of TRS benefits (with no additional TRB service credits accruing during the period of re-employment); and 3) it permits retired teachers to receive health insurance from the re-employing school district without such insurance benefits counting towards the 45% earnings cap. The Act also appears to require all such re-employed retired teachers to be eligible for such health insurance on the same terms as active teachers.



IMPACT: This Act, and recent guidance from the Teacher Retirement System, must be considered when addressing health insurance benefits during the collective bargaining process for teachers; the benefits available for part-time teachers may dictate the ability of re-employed retired teachers to receive such benefits.

Motor Vehicle Inspectors and Operators

Public Act 16-55: AN ACT CONCERNING RECOMMENDATIONS BY THE DEPARTMENT OF MOTOR VEHICLES REGARDING HAZARDOUS MATERIALS, CAR DEALERS, ELECTRONIC REGISTRATION, STUDENT TRANSPORTATION VEHICLE OPERATORS, DIVERSION PROGRAMS, MOTOR VEHICLE INSPECTORS AND MINOR REVISIONS TO THE MOTOR VEHICLE STATUTES

This Act allows motor vehicle inspectors (effective October 1, 2016) to carry weapons on school grounds while performing their official duties. The Act also revises (effective July 1, 2016) the statutory provision allowing persons age 70 or older to transport special education students; it changes the requirement of such persons having a physical exam twice a year or when asked to do so by a school superintendent to having such an exam once annually (or more frequently if the medical examiner or a school superintendent directs it).

IMPACT: This Act may require changes to school district weapons policies.

Manufacturing

Public Act 16-114: AN ACT ENCOURAGING MIDDLE SCHOOL AND HIGH SCHOOL STUDENTS TO CONSIDER CAREERS IN MANUFACTURING AND CONCERNING INFORMATION POSTED ON THE LABOR DEPARTMENT'S APPRENTICESHIP WEB SITE

This Act requires the Commissioner of Education, with the Board of Regents, to establish a committee to coordinate efforts to educate middle and high school students about manufacturing careers. This new committee must annually report its findings to the General Assembly, with the first report due February 1, 2017. The Act also requires the Commissioner to develop: 1) a program to introduce middle and high school students to manufacturing careers; and 2) a best practices guide to help local and regional boards of education incorporate relationships with the manufacturing industry in their middle and high school curricula. Finally, the Act requires the State Department of Labor to update its apprenticeship website by March 1, 2017, with updated information such as a list of occupations in which apprentices are employed and apprenticeship coursework and cost.



Teacher Arbitrator Terms

Public Act 16-185: AN ACT ADOPTING THE REQUIREMENTS OF THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS v. FEDERAL TRADE COMMISSION AND REVISING CERTAIN BOARDS AND COMMISSIONS STATUTES

Among many things, this Act revises the terms of office for “Teacher Negotiation Act” arbitrators responsible for teacher and administrators’ interest arbitrations from two years to four years. This portion of the Act took effect upon passage (June 7, 2016).

Early Childhood Education

Public Act 16-100: AN ACT CONCERNING RECOMMENDATIONS OF THE OFFICE OF EARLY CHILDHOOD

This Act permits (effective October 1, 2016) the Commissioner of Early Childhood to waive the requirement of submitting a new license application for a child care facility due to a change in ownership or location; extends (effective July 1, 2016) to all license-exempt programs (including those programs operated by public and private schools) the requirement that they notify the parents or guardians of participating children that the program is not licensed; expands (effective June 2, 2016) the membership of the local school readiness councils to include the local school district’s homeless education coordinator; authorizes (effective June 2, 2016) the Commissioner to enter into agreements in child care and youth camp service licensing matters; eliminates the child care facilities grant program; and makes “minor” and technical changes to the early childhood statutes.

Regionalism and Efficiencies

Public Act 16-144: AN ACT CONCERNING REGIONALISM

This Act makes a number of statutory changes intended to encourage regional efficiencies. First, the Act specifically permits municipalities to purchase equipment, supplies, materials, or services from entities that contract with a regional educational service center [“RESC”] or regional council of governments [“COG”] for the sale of such goods or services to the state, municipalities, nonprofits, or public purchasing consortia. Secondly, the Act also makes RESCs and local and regional boards of education eligible to participate in an existing regional performance incentive program administered by the Secretary of the Office of Policy and Management [“OPM”]. This program awards grant funding based on regionalization proposals submitted to OPM. The Act specifies that RESCs may submit grant proposals to OPM for funding for regionalization initiatives, planning studies and the sharing of information technology services. The Act further specifies that local and regional boards of education and RESCs serving populations of 100,000 or more may submit grant proposals for regional special education initiatives.



The Act also enacts several regionalization provisions directed towards municipalities and COGs. For instance, the Act specifies that, notwithstanding any local charter provisions to the contrary, municipalities may enter into regional partnerships for the provision of resident state trooper or other law enforcement services. The Act also expands existing statutory language on the development and review of municipal and COG conservation and development plans to include consideration of information technology needs.

Additionally, the Act requires the State Department of Education to conduct a study regarding methods and practices local school districts may utilize to reduce costs and increase efficiencies in the provision of student transportation. Specific methods and practices subject to study include, but are not to be limited to, the development of a statistical evaluation of efficiency model, using linear programming that considers distances, start times, end times, routes, population tiers, utilization and model contract provisions, for local school district student transportation operations. The Department is to issue its report and recommendations to the General Assembly by June 30, 2017.

Lastly, the Act also provides that OPM shall expend over \$360,000 to audit the providers of special education services and shall expend \$250,000 for the Department of Education to study the student transportation issues described in the preceding paragraph. The provisions of the Act, except those relating to municipal and COG plans of conservation and development, became effective upon the Act's June 9, 2016 passage. The provisions of the Act pertaining to municipal and COG plans of conservation and development become effective October 1, 2016.

Security Infrastructure Grants

Public Act 16-171: AN ACT EXTENDING THE SCHOOL SECURITY INFRASTRUCTURE COMPETITIVE GRANT PROGRAM

This Act extends the expiration date for the school security infrastructure grant program from June 30, 2016 to June 30, 2017.

Building Grants (and Graduation Requirements)

Public Act 16-4 (May Special Session): AN ACT AUTHORIZING AND ADJUSTING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS, TRANSPORTATION AND OTHER PURPOSES AND AUTHORIZING STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS

This Act, which took effect by July 1, 2016, authorizes (and re-authorizes) state grant commitments for specific school building projects. **This Act also allows school districts that have received a school construction grant within the last 25 years to delay implementing the new high school graduation**



requirements by one year (so as to apply to incoming freshman in 2017-2018). The Act permits 10 projects that were included on the project eligibility list in December of 2015, but are not authorized under this Act, to remain eligible for next year's list with the option to keep this year's reimbursement rate, if next year's is lower. This Act further exempts certain specified school construction projects from various statutory and regulatory requirements to allow them to: 1) qualify for state reimbursement grants; 2) qualify for additional grants through a higher level of reimbursement; 3) increase maximum project costs of previously approved projects; or 4) change the scope of previously approved projects. The Act permits any regional school district that is created or expanded on or after July 1, 2016 to receive the highest reimbursement rate from among the towns participating in the regional district plus an additional 10%, provided the project application is submitted within 10 years of, and relates to, the district's expansion or establishment. The Act requires that any independent college that operates an interdistrict magnet school that was built using public school construction grants and makes private use of any portion of the school must submit an annual report to the Commissioner of Education that shows that the college provides an equal to or greater than in-kind or supplemental benefit of its facilities to the magnet school students that outweighs the private use of the school building.

IMPACT: This Act may permit changes to school district graduation policies.

Technical High School Administrative/Budget Issues

Public Act 16-42: AN ACT CONCERNING THE TECHNICAL HIGH SCHOOL SYSTEM

This Act, which took effect on July 1, 2016, requires each technical high school to include a staffing needs statement in its proposed operating budget that it submits to the technical high school system superintendent. This Act requires the superintendent to then 1) include a staffing needs statement for both the entire system and each school within the superintendent's proposed operating budget; 2) communicate directly with the Office of Policy and Management secretary about creating or filling staff positions included in the approved operating budget; and 3) present such staffing information about each technical high school for the current academic year to the General Assembly.

State Budget and "Implementers"

Public Act 16-2 (May Special Session): AN ACT ADJUSTING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2017

As one can surmise by the Act's title, this Act makes numerous reductions in (among other things) the State Department of Education's budget and in various grants provided to Connecticut's schools.



Public Act 16-3 (May Special Session): AN ACT CONCERNING REVENUE AND OTHER ITEMS TO IMPLEMENT THE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2017

The so-called "Implementer" contains many relevant provisions (although often not connected with the stated purpose of the Act). Here is a brief synopsis:

- The Act increases from \$225 to \$325 the first day's compensation paid to State Board of Mediation and Arbitration arbitrators who preside over a proceeding as a three-member panel.
- The Act increases from \$25 to \$200 the fee an employer and its employee must each pay when submitting a grievance or dispute to the State Board of Mediation and Arbitration. The fee must be refunded if the parties agree to have the "public"/neutral member arbitrate the matter.
- The Act makes the Department of Social Services, rather than the Department of Developmental Services, the lead agency for coordinating state agency functions that have responsibility for Autism Spectrum Disorder services
- The Act removes the Office of State Ethics, State Elections Enforcement Commission, and Freedom of Information Commission from the Office of Governmental Accountability, thus making them each responsible for their own administrative functions.
- The Act expands, from eight to twelve, the number of members that comprise the School Building Project Review Committee.
- The Act extends for 2015-2016 the Commissioner of Education's authority to make supplemental magnet school transportation grants, within available appropriations, to assist *Sheff* school integration goals (i.e., Capitol Region Education Council) and to EASTCONN.
- The Act revises the criteria for adding state-funded seats at magnet schools, allowing increases only for planned and pre-approved new grade levels or to address non-compliance with the *Sheff* desegregation standard. The Act allows the State to unilaterally proportionately reduce the magnet operation grant for magnet schools and further allows the magnet operators to pool all magnet school grants and use them across all magnet schools operated by the entity rather than receiving individual grants per school as in the past.
- The Act requires the Office of Early Childhood Commissioner to submit a report to the General Assembly's Appropriations Committee by October 1, 2016 and quarterly thereafter, through the quarter ending December 31, 2018, about school readiness and state-funded child care facilities program capacity and utilization.
- The Act revises the formula for calculating whether a town has received an Education Cost Sharing



Grant (“ECS”) increase in 2016-2017. The Act establishes a similar formula for calculating whether a town has received an ECS decrease in 2016-2017.

- The Act allows a town to reduce its Minimum Budget Requirement [“MBR”] when it experiences an ECS decrease in a fiscal year in an amount equal to the **ECS decrease**. Alliance districts are still prohibited from reducing their MBR in 2015-2016 and 2016-2017.
- Current law that allows towns to claim an **MBR exemption** for earning district performance index scores among the top 10% of all districts has been amended to instead use accountability index scores to rank districts. Parenthetically, the State has announced the factors to be included in the accountability index; one of the factors is standardized testing participation rates.
- The Act revises the formula by which the Commissioner of Education may **holdback ECS increases** for an **alliance school district** until such a district supplies the Commissioner with a plan that addresses objectives and targets to improve student achievement.
- The Act authorizes municipalities, from the Act’s passage through June 30, 2017, to **amend an adopted budget** if: 1) state aid to the municipality is reduced below the amount projected for the adopted budget; 2) the budget amendment does not exceed the amount of the reduced state aid, and 3) the budget amendment is approved in the same manner as the original budget. This authorization applies regardless of conflicting: 1) statutes affecting boards of education, municipalities, and property tax levy and collection; 2) special acts; or 3) municipal charters or home rule ordinances.
- This Act provides that with respect to the recently enacted law reducing municipal aid for those municipalities that have a budget increase in excess of 2.5% commencing with the 2017-2018 fiscal year, 1) this 2.5% cap is to be applied to the municipality’s “adopted” budget expenditures, which is defined as including expenditures from the municipality’s general fund and any “nonbudgeted” funds; 2) this cap will not apply to budgeting for an audited deficit, nonrecurring grants, capital expenditures, or payments on unfunded pension liabilities; and 3) this reduction will not apply where the budget exceeds the cap by an amount proportionate to any increase in the municipality’s population from the previous fiscal year.
- The Act provides that for the 2017-18 fiscal year, 35% of the annual regional services grant awarded by the secretary of OPM must be awarded to regional councils of government [“COGs”] for the purpose of assisting regional education service centers in merging their human resource, finance or technology services with such services provided by municipalities within the region. Funding for such regional services grants is to be determined based upon a formula as determined by the secretary of OPM.



II. LEGISLATION AFFECTING LABOR AND EMPLOYMENT BENEFITS

LABOR AND EMPLOYMENT

Direct Deposit and Payroll Cards

Public Act 16-125: AN ACT ALLOWING EMPLOYERS TO PAY WAGES USING PAYROLL CARDS

This Act, which takes effect on **October 1, 2016**, allows employers to pay wages to employees via “payroll cards”, provided that the employee has been given the option of payment by check and direct deposit and the employee then voluntarily consents to the payroll card option. A “payroll card” is defined as a stored value card used by an employee to access wages from a payroll card account established at a financial institution by an employer and that is redeemable (at the employee’s election) at merchants or service providers, bank branches or automated teller machines; it does not include a gift certificate. The Act generally prohibits the assessment of fees to the employee. **This Act also expressly provides that employers may utilize direct deposit for payment of wages (which has become a common practice), but only upon a request by the employee;** however, a collective bargaining agreement providing for automatic direct deposit may constitute sufficient consent for the covered employees. The Act further permits employers, regardless of how they are paying their employees, to provide them with an electronic record of the employee’s hours worked, gross earnings, deductions, and net earnings in lieu of the traditional paper pay stub, provided that the employee consents.

Biweekly Pay and Unemployment Compensation Procedures

Public Act 16-169: AN ACT CONCERNING UNEMPLOYMENT COMPENSATION APPEALS AND HEARINGS AND MINOR AND TECHNICAL REVISIONS TO THE GENERAL STATUTES RELATING TO THE LABOR DEPARTMENT

This Act specifically authorizes employers to pay their employees bi-weekly, a practice that is almost universal but has been technically illegal (unless permitted via a waiver or through collective bargaining). This change took effect upon passage (**June 6, 2016**). This Act also makes various procedural changes to the unemployment compensation appeals and hearings process, including expressly permitting the filing of appeals electronically, and makes various “minor” and technical revisions to the general statutes affecting the Department of Labor.

IMPACT: Employers seeking to switch to a biweekly pay period must provide notice (in writing or via posting) to their employees of the change in the payment schedule. In addition, a unionized employer with a collective bargaining agreement (or “past practice”) that expressly provides for weekly paychecks may have to bargain with the applicable union before making the change.



Technical Changes/Obsolete Provisions

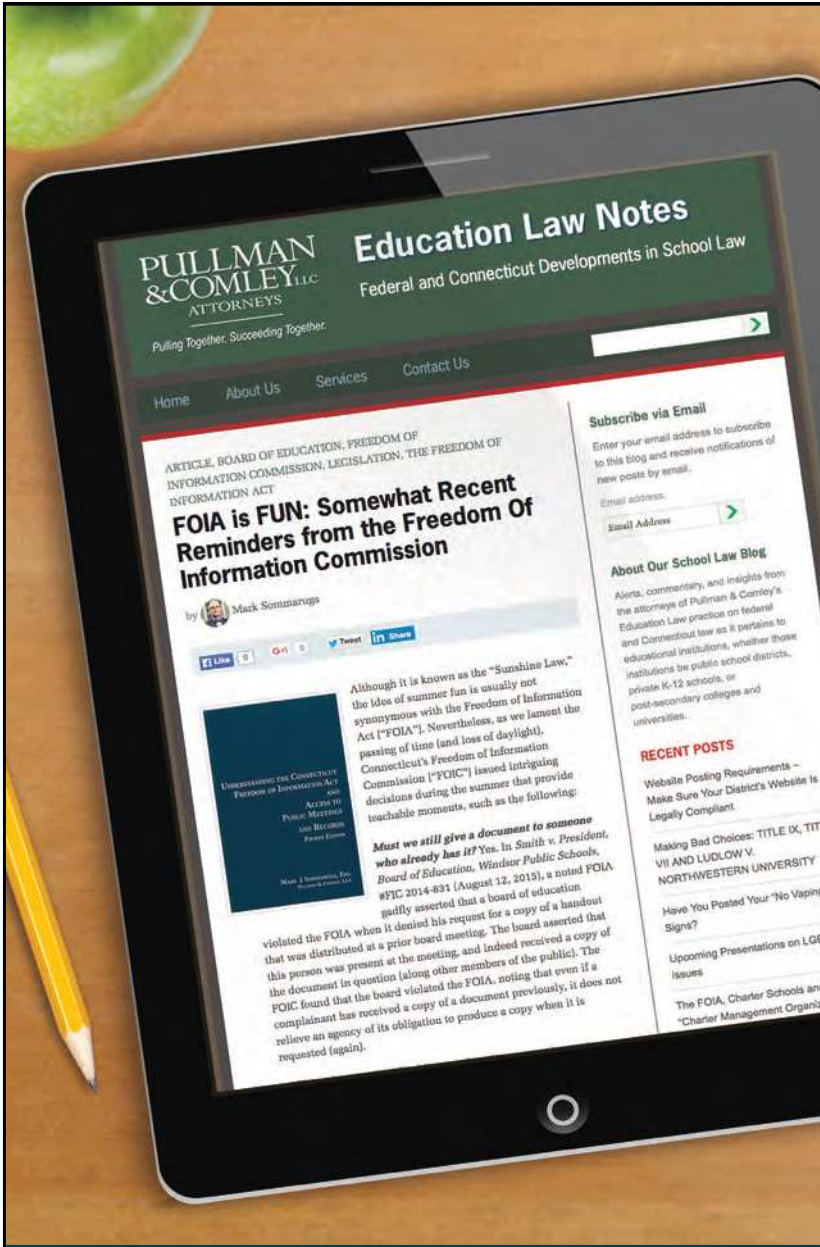
Public Act 16-170: AN ACT CONCERNING THE REPEAL OF OBSOLETE REPORTS AND PROGRAMS INVOLVING THE LABOR DEPARTMENT

The Act repeals various reports currently statutorily required of the Department of Labor that are deemed to be either obsolete or duplicative.

This publication is intended for educational and informational purposes only. Readers are advised to seek appropriate professional consultation before acting on any matters in this update.

This report may be considered attorney advertising.





Serving the Legal Needs of Connecticut's Boards of Education

Please visit *Education Law Notes*, our school law blog that covers legal matters of interest to Connecticut public school districts. *Education Law Notes* covers issues that are at the heart of board service, including academics, labor and employment, special education, gender equality and disability rights, social media, bullying and administrative policies and procedures. Inform yourself and your board. Visit Pullman & Comley's *Education Law Notes* at <http://schoollaw.pullcomblog.com/>.

Issues Covered include:

- *The Constitutionality of Teacher Tenure*
- *Immigration Status Checks by School Districts*
- *District and Individual Liability for Failing to Address Bullying and Harassment*
- *District Responsibility for Vendor Speech*
- *Board of Education Committee Requirements*
- *Paying "Volunteers"*
- *Changes to FMLA for Paraprofessionals*
- *Freedom of Information Act Compliance*

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