

Latest Developments from the Connecticut General Assembly: The Education Committee Has Spoken

Education Law Notes

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We had written earlier about the proposed bills that the General Assembly's Education Committee voted favorably on and advanced out of committee at its March 8, 2017 meeting. The Committee subsequently voted favorably on a bevy of bills. The following is summary of these bills.

STATE AID, GRANTS AND COST SHARING: It goes without saying that school finance and budgeting issues are at the top of the list of everyone's concerns. **Senate Bill No. 2** would broadly establish (without any detail) a revised education cost-sharing grant formula that "equitably distributes state education funds to towns". **House Bill No. 7270** would do the same, but at least indicates this conceptual formula will include "adjusted equalized net grant lists, current student census data, and measures of student need."

MANDATE REDUCTION: Of course, with the budget crisis and the consequent cuts in state funding to at least some districts, there is some sentiment towards reducing the mandates imposed upon school districts. **House Bill No. 7276** would, among other things: make implementation of the uniform regional school calendar optional; eliminate the new requirement that an alternative educational opportunity for expelled students be five hours per day and instead replace it with an mandate to provide an alternative education opportunity consistent with standards that will be developed by the State Board of Education by August 15, 2017; require only specified school employees who have direct contact with students to complete training in student restraint and seclusion; and require school employers when making those background checks mandated by recent legislation (Public Act 16-67) to contact only those former employers in which an applicant was employed for any of the previous 20 years.

Senate Bill No. 786 would a) extend from 90 days to 180 days certain temporary teaching certificates, b) increase the maximum of number of years for superintendent contracts from three to five years, c) expressly authorize boards of education to enter into inter-district cooperative arrangements to provide administrative and central office services, d) provide that boards of education that jointly employ a superintendent of schools may reduce the amount of meetings, and e) provide for the posting of audits and reports of endowed and incorporated high school academies, and require a public hearing on such an academy's budget (and review by the sending boards of education). **Senate Bill No. 1015** would permit towns that receive less than 3% of their education budget via equalized cost sharing grants, or who decline to receive any such grants, to seek the waiver from the Commissioner of Education from education statutes or regulation mandates.

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However, certain statutes cannot be waived, such as collective bargaining, teacher tenure/dismissal, residency, special education, student suspensions and expulsions.

MINIMUM BUDGET REQUIREMENT: **House Bill No. 7275** would extend recent exceptions to the “Minimum Budget Requirement” [“MBR”] so as to permit a town to reduce its budgeted appropriation from the previous year in an amount equal to reductions in state educational cost sharing aid. **Senate Bill No. 711** would allow greater reductions in municipal education budgets with respect to the MBR when there is reduced student enrollment.

STATE CONSTRUCTION GRANTS: Besides the usual authorization of state grant commitments for specific projects, **H.B. No. 7158**, the legislature is contemplating changes to the formulation of funding of school building projects. **Senate Bill No. 907** would utilize a three-year rolling average of the “equalized net grand list per capita” for purposes of calculating a town's school construction reimbursement percentage for new construction grant applications. The Governor is proposing is proposing even more significant change in the grant program. **H.B. No. 7034**

TASK FORCES AND STUDIES: The budget crisis has not weakened the General Assembly’s voracious appetite for task forces and studies. **Senate Bill No. 1018** would require the Performance Evaluation Advisory Council to study issues relating to the guidelines for teacher evaluation and support programs, and report back to the General Assembly’s Education Committee by May 20, 2018. The Education Committee has approved bills requiring the Department of Education to conduct studies related to “education issues in the state” **S.B. No. 1016**, “local education authorities in the state; **H.B. No. 7273**; and “the public schools in the state” **H.B. No. 7272**. **Senate Bill No. 949** would establish a “Digital Citizenship, Internet Safety and Media Literacy Advisory Council” within the Department of Education, which would provide recommendations to the State Board of Education regarding a) best practices relating to instruction in digital citizenship, Internet safety and media literacy, and b) methods of instructing students to “safely, ethically, responsibly and effectively use media and technology resources”. More importantly, **House Bill No. 7255** would establish a task force to conduct a feasibility study regarding the creation of a state special education predictable cost cooperative, and report back to the General Assembly’s Education Committee by January 1, 2019, which leads us to

SPECIAL EDUCATION: Instead of just talk of future feasibility, **House Bill No. 6619**, would create a “Special Education Predictable Cost Cooperative Implementation Committee” which will develop a plan to implement the “Special Education Predictable Cost Cooperative”. Specifically, the Cooperative’s purpose is to have a special education funding mechanism that: a) aggregates special education costs at the state level and provides cost predictability to school districts, b) maintains current state funding for special education, c) differentiates funding based on student learning needs, d) equitably distributes special education funding, and e) limits local financial responsibility for students with “extraordinary” needs. This cooperative would be

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funded by: a) a “community contribution” from each school district, calculated based on the number of special education students enrolled in the district and the district's previous special education costs, with each town paying the community contribution of its resident students, reduced by an “equity adjustment” based on the town's ability to pay, and b) the state contribution, which is a reallocation of the special education portion of the equalization aid grant and the excess cost grant. The cooperative would a) provide all school districts with some state support for special education services; b) ensure that a school district's community contribution will be lower than the district's actual per pupil special education cost; and c) reimburse school districts for 100% of their actual special education costs for a fiscal year. The committee will submit its plan and any recommendations concerning legislation necessary to implement the plan to the Commissioners of Education and Insurance and to the General Assembly's Education, Appropriations, and Insurance Committees. The plan will then be subject to approval (or rejection) by the General Assembly. If approved, the Commissioner of Education shall implement, by regulation and within available appropriations, the cooperative based upon the plan beginning with the 2018-2019 fiscal year.

There are other bills of interest in the special education realm. **House Bill No. 7252** would provide that for special education matters, the parties could agree to have an “independent adjudicator” in lieu of mediation; the independent adjudicator process is more involved than mediation (although it still does not lead to a binding result). This bill would also require local and regional school districts to establish policies permitting (and prescribing the manner of) the reasonable observation of a student in the classroom by his/her parent. **Senate Bill No. 1009** would mandate that the training of special education due process hearing officers include training in state and federal special education law. **Senate Bill No. 1007** would a) require the Department of Education to annually collect and report on data relating to local special education expenditures, and b) provide that where the Commissioner of Education has determined that a board of education intentionally under-budgeted its estimated special education expenditures and is relying instead upon funds from the town to pay for additional expenditures, the town will not be responsible for paying for such expenditures. **Senate Bill No. 1008** would provide that with respect to residential placements made by the Department of Developmental Services, responsibility for the residential/non-educational costs associated with such placement will belong to that Department, although the local or regional school district would still be responsible for the educational costs of such placement. **House Bill No. 7254** would require teachers applying for professional certification with a comprehensive special education or integrated early childhood and special education endorsement to complete a program of study in the diagnosis and remediation of reading and language arts that includes supervised practicum hours and instruction in the detection and recognition of, and evidence-based structured literacy interventions for, students with dyslexia.

STAFF DEVELOPMENT AND TRAINING: Senate Bill No. 953 would implement the recommendations of the task force on professional development and in-service training requirements for educators by a) simply requiring that professional development be consistent with any goals identified by the certified employees and the local or regional board of education (in lieu of statutorily specified areas), and b) eliminating certain

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in-service requirements. **Senate Bill No. 913** would require local and regional boards of education to annually provide training to all paraprofessionals, which shall a) provide information necessary to instruct paraprofessional on their duties and responsibilities, b) be consistent with the specific needs of the student (s) to whom the paraprofessional will be assigned, and c) be provided before the start of the school year by the immediate supervisor of the paraprofessional and with pay. In the case of a paraprofessional who is hired by a board of education after the start of the school year or who has been reassigned during the school year, such training shall be provided to the paraprofessional before the paraprofessional's assignment or reassignment begins.

HIGH SCHOOL GRADUATION: There may be further delay in long promised revisions to the state's high school graduation requirements. **Senate Bill No. 1026** would keep the current graduation requirements in place for classes graduating in 2022 (and before). In addition, this bill would revise the amendments that were previously scheduled to take place so that for classes graduating in 2023 (and after), the state's minimum graduation requirement will be 25 credits, including not fewer than: 1) nine credits in the humanities, including civics and the arts; 2) nine credits in science, technology, engineering and mathematics; 3) one credit in physical education and wellness; 4) one credit in world languages; and 5) a one-credit, mastery-based diploma assessment. The bill provides that only courses that are in accordance with the state-wide subject matter content standards that are to be adopted by the State Board of Education shall generally count towards graduation. The bill, however, provides that school districts may provide credits to students toward meeting the graduation requirements upon the successful demonstration of mastery of the subject matter content achieved through various alternative and flexible educational experiences and opportunities (including cross-curricular graduation requirements, career and technical education, virtual learning, work-based learning, service learning, dual enrollment and early college, courses taken in middle school, internships and student-designed independent studies), provided such demonstration of mastery is in accordance with the statewide subject matter content standards.

DESEGREGATION, REFORM AND UNDER-PERFORMING SCHOOL DISTRICTS: **House Bill No. 7201** would apply the reduced-isolation setting standards of the 2013 stipulation and order for Sheff v. O'Neill to all inter-district magnet schools in the state. **House Bill No. 7035** would provide for the creation of "promise" school districts, which are basically "alliance school districts" following their exit from that program designation, and "opportunity" school districts, which is basically the renaming of "reform districts" (i.e., the ten towns with the lowest accountability index scores), and would apply many of the requirements for alliance school districts to these schools districts (namely, the hold-back of money conditioned on plans of improvement). **Senate Bill No. 955** would authorize the State Board of Education to appoint a "district improvement officer" to implement an improvement plan for a low achieving school or educational reform district. **House Bill No. 7251**, among other things, would enhance the training for boards of education of low performing school districts that are implementing improvement plans, require the Department of Education to create a model school district responsibilities agreement (including the proper roles of boards of education), and include

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such model agreements and leadership succession plans as part of a school district's alliance district plan.

EDUCATIONAL RECORDS AND PRIVACY: House Bill No. 7204 would provide that whenever a student enrolls in a new school district, a) the new district must provide written and electronic notification to the former school district, and b) in addition to providing a “paper copy” of the child’s educational records within ten days of enrollment, the former district must provide electronic student records to the new district within two business days of receiving notice of such enrollment. **House Bill No. 7207** would delay the implementation of the requirements of the Student Data Privacy Act of 2016 (Public Act 16-189) until July 1, 2018.

STUDENT ELECTRONIC DEVICES AND “PRIVACY”: In a legislative overreaction, **House Bill No. 7154** would prohibit any school employee (public or private) from seizing a student's personal mobile electronic device for purposes of accessing any data or other content stored upon or accessible from the device, or compel a student to produce, display, share or provide access to any data or content stored upon or accessible from such device, unless the device is located on school property and the school employee has a reasonable suspicion that a student 1) has violated or is violating an educational policy and that such device contains evidence of the suspected violation, or 2) poses a risk of imminent personal injury to such student or others. Upon taking custody of the device, the school employee must immediately turn it over to a school administrator, who may then conduct a search of the device. Any such search shall 1) be strictly limited to finding evidence of the suspected policy violation or to prevent imminent personal injury to such student or others, and 2) immediately cease upon a) finding sufficient evidence or no evidence of the suspected violation, or b) preventing such imminent personal injury to such student or others. Immediately after searching such device, the school employee shall report, in writing, to the principal the reasonable suspicion that gave rise to the search. Not later than 24 hours after the completion of the search, the principal shall notify the student and the parent or guardian of the student of the suspected violation and what data was accessed from such device during the search of such device. The principal shall provide a copy of the report detailing the reasonable suspicion that gave rise to the search. Finally, the bill prohibits school administrators from copying, sharing or transferring any data or any information accessed on the device during a search that is unrelated to the suspected violation of an educational policy or risk of imminent personal injury to such student or others.

HEALTH AND SAFETY: Senate Bill No. 951 would require each school district to conduct a test of the water supply for any school building or facility constructed before July 1, 1986. **Senate Bill No. 840** would implement the recommendations of the Department of Public Health regarding the mandatory release of immunization rates for each public and private school in Connecticut. **House Bill No. 7200 would implement the recommendations of the task force on life-threatening food allergies in schools.** This bill would expressly empower the State Department of Education to revise when necessary (and then make available to school districts) its guidelines for the management of students with life-threatening food allergies and

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glycogen storage disease. This bill would require school districts to mandate that all relevant course curriculum and school culinary programs implement allergen restrictions and safety protocols to allow students with life-threatening food allergies to participate and to include the district's management of students with life-threatening food allergies plan in any programs relating to school climate or wellness adopted by such board. The bill would require the Departments of Education and Public Health to develop and make available to each school district a safety protocol for **school bus drivers** to follow in the event that a student is experiencing a life-threatening food allergy emergency. The safety protocol will include 1) a requirement that each school bus contain a list of names of students with a life-threatening food allergy and that such list is updated annually, 2) information and training regarding cardiopulmonary resuscitation, first aid and the emergency management and administration of epinephrine, 3) instructions for the notification of emergency personnel, 4) follow-up and reporting procedures after a student has experienced an allergic reaction, 5) the signs and symptoms of anaphylaxis, and 6) prevention and risk-reduction strategies regarding allergic reactions. The school bus driver would then be subject to all the remaining statutory provisions applicable to school personnel in the administration of medication.

ABUSE AND NEGLECT REPORTS: Mirroring legislation that was vetoed in 2015 by Governor Malloy, **Senate Bill No. 1017** would require the removal of all references in a school employee's personnel records of a report and investigation relating to an unsubstantiated allegation of abuse or neglect by the employee and prohibit the use of such report and investigation against such school employee for any purpose relating to his or her employment. This bill would, however, permit school districts to continue to conduct their own investigations into such employee misconduct.

SECLUSION AND RESTRAINT: Following up 2015's revisions to the seclusion and restraint statutes, **House Bill No. 7111** would revise the definition of "physical restraint" to specifically include "carrying or forcibly moving an individual from one location to another." The bill would further clarify/emphasize that seclusion cannot be utilized as a planned intervention in a student's treatment or educational plan. This bill would also provide that training in seclusion and physical restraint is only required for those teachers, administrators, and paraprofessionals who have direct contact with students.

EARLY CHILD HOOD: Attempting to carry out a prior gubernatorial promise, **Senate Bill No. 954** would require the State Department of Education, in consultation with the Office of Early Childhood, to develop a plan for universal preschool beginning in 2022, with the Department then submitting its plan and recommendations to the General Assembly's Education Committee by January 1, 2019. **House Bill No. 7155** would require the Office of Early Childhood to develop a proposed early childhood educator compensation schedule for early childhood educators working for programs that receive state funds, with the Office then submitting such schedule and recommendations to the General Assembly's Education and Appropriations Committees by January 1, 2018. **Senate Bill No. 912** would allow an individual who holds a bachelor's degree and has completed 12 credits or more in early childhood education or child development to satisfy

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the staff qualifications requirement for early childhood educators. **Senate Bill No. 952** would create a non-lapsing account to be used by the Department of Social Services to transfer federal funds to the Office of Early Childhood for purposes of funding the Care 4 Kids child care subsidy program. **House Bill No. 7205** would a) require that the results of the reading instruction survey be distributed to teachers and supervisors in order to inform such teachers' professional development in reading instruction, and b) establish a reading readiness program that provides tiered supports in early literacy to schools and school districts.

TECHNICAL HIGH SCHOOLS: First of all, **House Bill No. 7271** would establish the Technical High School System as an independent state agency, separate and apart from the State Board of Education. In a less existential realm, **Senate Bill No. 950** would decrease the number of years of required employment experience for an applicant seeking teacher certification for a position at a technical high school from eight years to five years, and require the Department of Education to provide guidance on the application process to applicants seeking teacher certification for a position at a technical high school. **House Bill No. 7202** would a) establish a post-secondary vocational programs division within the technical high school system, and b) classify licensed practical nurse programs and aviation maintenance programs at technical high schools as “postsecondary education programs” for purposes of maintaining students' eligibility for federal Pell grants.

OMNIBUS /MISCELLANEOUS: A legislative session is not truly a legislative session without the usual grab bag bills purporting to make “minor revisions. **House Bill No. 7253** would replace the school performance index with the accountability index, require the State Department of Education to notify school districts of their students' mastery examination scores by August 15th of each year, postpone the requirement that teachers have a masters' degree in order to obtain professional educator certification from July 1, 2016 until July 1, 2018, provide that school district vision screenings include where necessary a recommendation for the student to be examined by an optometrist or ophthalmologist, require school districts (and private providers) to provide further information upon request during audits of private special education placements, permit candidates for licensure as a marital and family therapist to provide such services to students and their families, extend the timeline for the State to provide digitalized individualized education program software to school districts (with the State merely having to provide it to ten school districts for 2017-2018 and not the remaining districts until July 1, 2018), permit a one-time two-year extension for an acting superintendent of schools who does not have certification due to a “hardship”, and establish a task force to study issues relating to the governance, financing, general conduct and roles of interscholastic athletic programs, with a report back to the General Assembly's Education Committee by January 1, 2018. It also expressly indicates that “10-4b” complaints against school districts for failure to carry out the educational interests of the state may also be brought against charter schools, magnet school operators, vocational-technical high schools, agricultural science and technology education centers, and endowed high school/ academies.

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If that was not enough, **Senate Bill No. 1014** would, among other things, extend various grant programs, apply the education employees' background check requirements to private school employees, permit school districts to enter into agreements with their towns to take over responsibility for the provision of non-educational services, require school nurses to receive twelve hours of specified training within one year of appointment, expressly authorize local and regional school districts to require private special education providers to provide monthly or quarterly reports as to the services being provided to their students and permit periodic site visits by the district (and to require the district to submit to audits with respect to such placements), expressly indicate that incarcerated parents are still generally entitled to access to their child's student records (with certain exceptions), provide for non-renewable out-of-state teacher permits and extend the "resident teacher" permits from one year to two years, and expressly authorize public library boards of trustees to make policies and rules with respect to library internet usage.

MISCELLANEOUS: Senate Bill No. 1019 ("AN ACT CONCERNING AN EVALUATION OF EQUITY ISSUES RELATED TO THE TOWN OF MIDDLEBURY'S MEMBERSHIP IN THE REGION 15 SCHOOL DISTRICT") would provide with respect to proposals relating to the budget for the Region 15 school district, there must be at least one vote from each member town for approval.

PLEASE NOTE: The 2017 session of the General Assembly is scheduled to adjourn on June 7, 2017, so stay tuned to see if any of the above bills are enacted. Bills affecting school districts and educational issues may also emerge from other committees (such as the Judiciary Committee and the Labor and Public Employees Committee). Indeed, please visit *Working Together* for updates on labor and employment related legislation.

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