

## Attorneys:

- **Zachary D. Schurin**  
ZSchurin@pullcom.com  
860.424.4389

## Impact of Recent Legislation on BOE Policies

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This Alert provides a general explanation of the recent legislative enactments that impact board of education policies. For more detailed and individualized assistance with amending your policies, please contact any one of our school law attorneys.

### New Policy on Physical Exercise and Discipline [1]

By October 1, 2013, school districts must adopt a policy, “as the board deems ‘appropriate,’” on the withholding of physical exercise as discipline as well as the requiring of physical activity as discipline. Specifically, the policy must address the parameters of:

1. School employees preventing elementary students from participating in the entire 20 minute required period of physical exercise as a form of discipline;
2. School employees requiring any student in grades K-12 to engage in physical activity as a form of discipline.

The term “school employee” is defined very broadly and includes teachers, substitute teachers, administrators, superintendents, guidance counselors, psychologists, social workers, nurses, physicians, school paraprofessionals, coaches and any other individual who, in the performance of his or her duties, has regular contact with students and provides services to or on behalf of students pursuant to a contract with the board of education.

Also, the requirement of a period of physical exercise of not less than 20 minutes for grades K-5 has been expanded to apply to all elementary school students.

This law also establishes a state task force on childhood obesity. The task force will gather information, study nutrition standards for food procured by the state, explore ways to increase children’s physical activity levels, recommend a pilot

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program for scheduling recess before lunch in elementary school, and advise the General Assembly.

### **IMPACT**

The law only requires that there be a policy. School districts have a great deal of discretion in formulating the policy. Consider developing a policy that is consistent with the district's approach on discipline.

### Written Explanation to Municipality for Emergency Line Item Transfers [2]

Connecticut General Statutes §10-222 allows a board of education to "authorize designated personnel to make limited transfers under emergency circumstances if the urgent need for the transfer prevents the board from meeting in a timely fashion to consider such transfer." Such transfers are announced at the next regularly scheduled meeting of the board. Effective October 1, 2013, boards of education must also provide a written explanation of the transfer to the legislative body of the municipality or, in a municipality where the legislative body is a town meeting, to the board of selectmen.

In addition, when the board of education submits its annual budget to the authority making appropriations for the school district, the municipality has ten days in which to make spending recommendations "as to how such board of education may consolidate non-educational services and realize financial efficiencies," after which the board of education may reject such suggestions, but must provide a written explanation for such rejection.

This law also defines "itemized estimate" as "an estimate in which broad budgetary categories including, but not limited to, salaries, fringe benefits, utilities, supplies and grounds maintenance are divided into one or more line items."

### **IMPACT**

- Consider amending the board's line item transfer policy to require a written explanation to the legislative body or board of selectmen.
- Make sure that the board of education's annual proposed budget format satisfies the definition of an "itemized estimate" in which "salaries, fringe benefits, utilities, supplies and grounds maintenance are divided into one or more line items."

### School Security and Safety Plans [3]

The Department of Emergency Services and Public Protection ("DESPP") must develop school security and safety plan standards by January 1, 2014. By July 1, 2014, boards of education are expected to use the DESPP standards to develop a school security and safety plan for every school in their jurisdiction. School security and safety plans must:

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1. Be developed with involvement of local officials (superintendent, chief executive of the municipality, police, fire, public health, emergency management, emergency medical services);
2. Have local law enforcement and public safety officials evaluate, score and provide feedback on fire and crisis response drills and require the board of education to report annually to DESPP on fire and crisis response drills;
3. Include a command center organization structure (based on the National Incident Management System);
4. Establish crisis management procedures and procedures for managing various types of emergencies;
5. Establish a school security and safety committee for each school (consisting of, at minimum, a local police officer, a local first responder, a teacher, an administrator, a parent, and a mental health professional);
6. Require the board of education to conduct a security and vulnerability assessment for each school every two years and amend the plan based on the results of such assessment;
7. Require Safe School Climate Committees to collect, evaluate and report information relating to instances of disturbing or threatening behavior that may not meet the definition of bullying to the safe school climate coordinator and school security and safety committee;
8. Provide an orientation on the school security and safety plan and violence prevention training to each school employee.

In addition, “mental health first aid training” will be mandatory for safe school climate coordinators and discretionary for other school employees.

### **IMPACT**

- Consider methods for identifying possible school security and safety committee candidates for each school.
- Once the DESPP standards have been developed, seek further guidance on drafting security and safety plans for each school.
- Revise, as needed, the district’s Safe School Climate Plan to include collecting, evaluating and reporting information related to instances of disturbing or threatening behavior that may not meet the definition of bullying.
- Provide mental health first aid training to school employees consistent with safety plans.

### Exemption from Dissection [4]

Boards of education must excuse students from participating in, or observing, the dissection of any animal as part of classroom instruction provided the parent or guardian has requested in writing that such student be excused. Students so excused shall be required to complete an alternate assignment.

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### **IMPACT**

Review your exemption from instruction policy and consider the need to add or revise a section on dissection.

### Internet Posting of Board of Education Spending [5]

For the fiscal year ending June 30, 2014 and each year thereafter, boards of education, regional educational service centers and charter schools must make available on their Internet website the aggregate spending on salaries, employee benefits, instructional supplies, educational media supplies, instructional equipment, regular education tuition, special education tuition, purchased services and all other expenditure items, excluding debt service for each school.

### **IMPACT**

Review the content and kind of spending information currently available on the district's website and determine whether such information includes the required information.

### Adult Education [6]

The statute expands adult education instruction to include college preparatory classes for adults who have obtained a high school diploma or its equivalent and require further education to enable such adults to enroll directly in a program at an institution of higher education upon completion of such classes. School districts may charge a fee for college preparatory classes.

### **IMPACT**

Consider revising adult education policy to permit college preparatory classes.

### Amendment of Graduation Policy – Eligibility for Diplomas [7]

Two new laws allow the award of diplomas under the following circumstances:

1. To veterans of the "Vietnam Era," if they left high school prior to graduation in order to serve in the armed forces and did not graduate as a result of such service;
2. To any person who (A) withdrew from high school prior to graduation to work in a job that assisted the war effort during World War II, December 7, 1941, to December 31, 1946, inclusive, (B) did not receive a diploma as a consequence of such work, and (C) has been a resident of the state for at least fifty consecutive years.

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### **IMPACT**

Consider revising your graduation policy to include these two additional classes of persons who are eligible for the award of diplomas.

#### “Stealing” School Accommodations Not a Crime [8]

Effective October 1, 2013, the criminal code has been amended to specifically exclude school accommodations from the definition of larceny. Therefore, in situations where a student is found not to be a resident of the school district, the parent is not at risk of criminal prosecution (although the parent may still be civilly liable for the cost of tuition).

### **IMPACT**

Review residency policy and form letters for possible need to delete references to criminal prosecution.

#### Athletic Directors [9]

A new state law establishes the qualifications and responsibilities of athletic directors. School district athletic directors hired on or after October 1, 2013 must hold a coaching permit as well as a teaching certificate -or- must hold a master certificate issued by a national athletic administrators association approved by the State Department of Education. Athletic directors who serve a school must hold a coaching permit as well as a teaching certificate –or- certificate issued by a national athletic administrators association approved by the State Department of Education. Anyone serving as an athletic director prior to October 1, 2013 in accordance with current regulations is grandfathered from such qualification requirements, but only for the district in which such person works.

The law also provides that the position of athletic director shall have the following responsibilities:

1. Ensuring that each coach in the program holds a coaching permit issued by the state board;
2. Supervising and evaluating athletic coaches;
3. Supervising students participating in interscholastic athletics;
4. Possessing knowledge and understanding of all rules and regulations of the governing authority for interscholastic athletics;
5. Administering and arranging the scheduling of and transportation to athletic activities and events;
6. Administering and arranging the hiring of officials;
7. Ensuring a safe and healthy environment for all athletic activities and events; and

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8. Any other duties relevant to the organization and administration of the athletic program for the school or school district.

### **IMPACT**

Review and revise the athletic director job description to include the elements required by the law.

### Swimming Pool Safety Plan [10]

School districts that provide “student aquatic activities” – meaning any physical education class, interscholastic athletics or extracurricular activities offered to students that makes use of any swimming pool approved for use by the board of education – are subject to new requirements:

1. Effective July 1, 2013, at least one additional person (teacher, coach or lifeguard with appropriate qualifications) in addition to the person directly responsible for conducting any student aquatic activity must be present during any aquatic activities for the sole purpose of monitoring safety; and
2. By July 1, 2014, school districts that provide student aquatic activities must develop a swimming pool safety plan. The school swimming pool safety plan must be reviewed and updated prior to the beginning of each school year.

### **IMPACT**

Determine whether this new law applies to your district and proceed in accordance with the requirements.

### Use of Alert Now to Remind Parents of Referendum Prohibited [11]

Effective July 1, 2013, school districts are prohibited from using electronic or automated notification systems (Alert Now, e-mail, text, etc.) to apprise parents and guardians of the time, date and place of referenda. This legislation expands the general rule prohibiting the expenditure of public funds to influence a person to vote for or against a referendum question to include “reminding” or “encouraging” a group of residents to vote. The prohibition applies only when the referendum is pending and does not apply to regularly published newsletters or similar publications.

### **IMPACT**

Use caution when a referendum is pending. Time, date and place notices in regularly published newsletters should not coincide with other items that might be interpreted as advocating a position on the referendum. Check with legal counsel before sending any communication about a pending referendum.

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[1] Public Act 13-173, AN ACT CONCERNING CHILDHOOD OBESITY AND PHYSICAL EXERCISE IN SCHOOLS

[2] Public Act 13-60, AN ACT CONCERNING THE CONSOLIDATION OF NON-EDUCATIONAL SERVICES

[3] Public Act 13-3, AN ACT CONCERNING GUN VIOLENCE PREVENTION AND CHILDREN'S SAFETY

[4] Public Act 13-273, AN ACT CONCERNING DISSECTION CHOICE

[5] Section 192 of Public Act 13-247, AN ACT IMPLEMENTING PROVISIONS OF THE STATE BUDGET

[6] Public Act 13-121, AN ACT CONCERNING ADULT EDUCATION AND TRANSITION TO COLLEGE

[7] Public Act 13-57 AN ACT CONCERNING HONORARY DIPLOMAS FOR VIETNAM VETERANS and Public Act 13-122 AN ACT CONCERNING MINOR REVISIONS TO THE EDUCATION STATUTES

[8] Public Act 13-211, AN ACT EXCLUDING SCHOOL ACCOMMODATIONS FROM SERVICES THAT ARE SUBJECT TO THE LARCENY STATUTES

[9] Public Act 13-41, AN ACT CONCERNING HIRING STANDARDS FOR ATHLETIC DIRECTORS

[10] Public Act 13-161, AN ACT CONCERNING POOL SAFETY AT PUBLIC SCHOOLS

[11] Public Act 13-247, AN ACT IMPLEMENTING PROVISIONS OF THE STATE BUDGET

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