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INTERIM CT LEGISLATIVE UPDATE

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INTRODUCTION

The Connecticut General Assembly enacted a number of laws during its regular session that will impact Connecticut schools and public-sector employers. Among other things, bills have been enacted that: (1) “repeal and replace” last year’s radical enhancement of the alternative educational opportunity offered to students who are expelled from schools and that was supposed to take effect on August 15, 2017; (2) delay until July 1, 2018 the implementation of the Student Data Privacy Act, which was originally supposed to take effect on October 1, 2016; (3) further delay the revisions to high school graduation requirements; and (4) strengthen protections in the workplace for pregnant employees and veterans.

Due to the absence of a budget, the General Assembly will have to convene a “special session.” Bills that were not passed by both houses of the General Assembly during the 2017 regular session may still re-emerge during the “special session” or as part of the inevitable budget “implementer.”

This summary provides a concise description of the new laws with relevant commentary regarding their impact. For more detailed information regarding these legislative changes, please contact one of our attorneys.

PLEASE NOTE: An updated summary and discussion of laws that were passed during the 2017 session will be forthcoming from this firm after the conclusion of the upcoming “special session” and after our legislature has enacted a budget.

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EDUCATION LAW

MANDATE RELIEF, DELAYS AND ROLLSBACKS

PUBLIC ACT 17-220: AN ACT CONCERNING EDUCATION MANDATE RELIEF. Among other things, this Act, which took effect on July 1, 2017: makes implementation of the uniform regional school calendar optional; **eliminates the new requirement that an alternative educational opportunity for expelled students be five hours per day and replaces it with a mandate to provide an alternative education opportunity consistent with standards that will be developed by the State Board of Education by August 15, 2017;** requires that only members of a schools crisis intervention team complete training in student restraint and seclusion; and requires school employers when making those background checks mandated by recent legislation (Public Act 16-67) to contact only those former employers by which an applicant was employed during the previous 20 years.

IMPACT: Depending upon the guidelines issued by the State Board of Education, school districts may need to revise their discipline/expulsion policies.

PROFESSIONAL DEVELOPMENT AND TRAINING

PUBLIC ACT 17-37: AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE TASK FORCE ON PROFESSIONAL DEVELOPMENT AND IN-SERVICE TRAINING REQUIREMENTS FOR EDUCATORS. This Act, which took effect on July 1, 2017, implements the recommendations of the task force on professional development and in-service training requirements for educators by: (1) 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 (2) eliminating certain in-service requirements. This Act also eliminates obsolete language concerning requirements for attestations by school districts to the State with respect to compliance with professional development requirements, and State review/enforcement of the same.

HIGH SCHOOL GRADUATION

PUBLIC ACT 17-42: AN ACT CONCERNING REVISIONS TO THE HIGH SCHOOL GRADUATION REQUIREMENTS. This Act, which took effect on July 1, 2017, keeps the current graduation requirements in place through 2022. In addition, this Act revises 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 health and safety education; (5) one credit in world languages; and (6) a one-credit, mastery-based diploma assessment. The Act further provides that only courses that are in accordance with the statewide subject-matter content standards that are to be adopted by the State Board of Education

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shall generally count towards graduation. The Act also delays the requirement to provide remedial services for students in grades seven through twelve until the start of the 2023-24 school year.

The Act does provide, however, 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.

IMPACT: School districts may (yet again) have to revise their graduation policies.

PUBLIC ACT 17-29: AN ACT CONCERNING CONNECTICUT'S SEAL OF BILITERACY. This Act, which took effect on July 1, 2017, requires the State Board of Education to establish criteria by which a local or regional board of education may affix the “Connecticut State Seal of Biliteracy” on a diploma awarded to a student who has achieved a high level of proficiency in English and one or more foreign languages.

SPECIAL EDUCATION

PUBLIC ACT 17-3: AN ACT REQUIRING SPECIAL EDUCATION TEACHERS TO COMPLETE A PROGRAM OF STUDY IN EVIDENCE-BASED STRUCTURED LITERACY INTERVENTIONS FOR STUDENTS WITH DYSLEXIA. This Act, which took effect on July 1, 2017, requires 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 specifically must include supervised practicum hours and instruction in the detection and recognition of, and evidence-based structured literacy interventions for, students with dyslexia.

PUBLIC ACT 17-166: AN ACT CONCERNING TRAINING PROGRAMS FOR STATE AND LOCAL POLICE REGARDING JUVENILES WITH AUTISM SPECTRUM DISORDER OR NONVERBAL LEARNING DISORDER. This Act, which takes effect on October 1, 2017, requires the training offered to police to include techniques for handling incidents involving juveniles with autism spectrum disorder and non-verbal learning disorders.

GIFTED AND TALENTED STUDENTS

PUBLIC ACT 17-82: AN ACT CONCERNING SERVICES FOR GIFTED AND TALENTED STUDENTS. This Act, which took effect on July 1, 2017, requires the State Department of Education to designate an employee to be responsible for providing local and regional boards of education and the parents or guardians of students information and assistance related to awareness about and identification of, and the provision of services to, gifted and talented students. **This Act also requires the Department of Education to develop guidelines regarding the provision of services to gifted and talented students in schools.** Such guidelines must

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include best practices for (1) addressing the intellectual, social and emotional needs of gifted and talented students in schools, and (2) providing educator training and professional development relating to gifted and talented students.

DESEGREGATION, REFORM AND UNDER-PERFORMING SCHOOL DISTRICTS

PUBLIC ACT 17-172: AN ACT CONCERNING THE ESTABLISHMENT OF REDUCED-ISOLATION SETTING STANDARDS FOR INTERDISTRICT MAGNET SCHOOL PROGRAMS. This Act, which took effect on July 1, 2017, creates a new student enrollment standard (with the goal of reducing racial, ethnic and economic isolation) for determining state operating grant eligibility for all interdistrict magnet schools, replacing three different categories of standards in current law. The Act allows the Commissioner of Education to establish a “reduced-isolation” standard which may not include enrollment of less than 20% “reduced-isolation” students in a school. In addition, the Act also allows a school to continue to receive the magnet school grant if it does not differ more than 1% from the “reduced-isolation” standard and is operating under an approved plan designed to meet compliance. The Act allows the Commissioner to create an alternative standard for 2018-2019 for the Sheff magnet schools in order to comply with any applicable court orders. This Act also makes the Center for Global Studies at Brien McMahon High School in Norwalk eligible for a full-time interdistrict magnet school program grant for the 2016-2017 fiscal year.

PUBLIC ACT 17-215: AN ACT CONCERNING REFORM DISTRICT TURNAROUND PLANS. This Act, which took effect on July 1, 2017, among other things, enhances the training for boards of education of low performing school districts that are implementing improvement plans, allows the State Department of Education to create a model school district responsibilities agreement (including the proper roles of boards of education), and includes such model agreements and leadership succession plans as part of a school district’s alliance district plan.

EDUCATIONAL RECORDS AND PRIVACY

PUBLIC ACT 17-200: AN ACT MAKING REVISIONS TO THE STUDENT DATA PRIVACY ACT OF 2016. This Act, which took effect on passage (July 10, 2017), **delays the implementation of the requirements of the Student Data Privacy Act of 2016** (Public Act 16-189) until July 1, 2018. This Act further revises the Student Data Privacy Act so that when it does take effect, school districts will have two business days (instead of 48 hours) to electronically notify students and parents after discovery of a breach of data security. In addition, the Act requires the State Department of Education to provide guidance to local and regional boards of education concerning the implementation of both the Family Educational Rights and Privacy Act (“FERPA”) and the Student Data Privacy Act. Finally, this Act makes revisions with respect to the composition of the “Student Data Privacy Task Force”, and extends the deadline for the Task Force to issue its report until January 1, 2018.

IMPACT: If they have not done so already (while trying to comply with the prior October 1, 2016 deadline),

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school districts will need to ensure that contracts entered into after July 1, 2018 contain those terms specified and mandated in the Student Data Privacy Act, and (subject to any further guidance issued by the State Department of Education) revise their student records policies.

PUBLIC ACT 17-194: AN ACT CONCERNING ACCESS TO STUDENT RECORDS FOR CERTAIN

UNACCOMPANIED YOUTHS. This Act, which took effect on July 1, 2017, entitles “unaccompanied” homeless youth to have access to all of their educational, medical or “similar” records in a school district’s cumulative file.

OMNIBUS

PUBLIC ACT 17-173: AN ACT CONCERNING MINOR REVISIONS AND ADDITIONS TO THE EDUCATION

STATUTES. This Act, which took effect on July 1, 2017 requires the State Department of Education to notify school districts of their students’ mastery examination scores by August 15 of each year, **postpones the requirement that teachers have a master’s degree in order to obtain professional educator certification from July 1, 2016 until July 1, 2018**, provides that school district vision screenings include where necessary a recommendation for the student to be examined by an optometrist or ophthalmologist, requires school districts (and private providers) to provide further information upon request during audits of private special education placements, permits candidates for licensure as a marital and family therapist to provide such services to students and their families, extends 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), permits a one-time two-year extension for an acting superintendent of schools who does not have certification due to a “hardship,” and establishes a task force to study issues relating to the governance, financing, general conduct and roles of interscholastic athletic programs, with a report due back to the General Assembly’s Education Committee by January 1, 2018. The Act also clarifies that retired teachers who are re-employed may continue to receive their retiree health insurance as generally provided via the Teacher Retirement System, and eliminates the requirement that such re-employed teachers receive health insurance from the re-employing board of education.

PUBLIC ACT 17-68: AN ACT CONCERNING VARIOUS REVISIONS AND ADDITIONS TO THE EDUCATION

STATUTES. This Act, which generally took effect on July 1, 2017, among other things, extends various grant programs, applies the education employees’ background check requirements to private school employees, **permits school districts to enter into agreements with their towns to take over responsibility for the provision of non-educational services**, requires school nurses to receive twelve hours of specified training within one year of appointment, expressly authorizes 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 indicates that incarcerated parents are still generally entitled to

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access to their child's student records (with certain exceptions), provides for non-renewable out-of-state teacher permits, extends the "resident teacher" permits from one year to two years, and expressly authorizes public library boards of trustees to make policies and rules with respect to library internet usage. This Act also establishes a private school transportation pilot program for July 1, 2017 through June 30, 2027. Specifically, local or regional boards of education for each town located within 12 miles of the West Hartford, New Haven, Shelton, Stamford and Montville school districts shall participate in a pilot program to provide school transportation services for resident students to attend an equivalent nonpublic school located in the school districts of West Hartford, New Haven, Shelton, Stamford and Montville. This Act also requires each local and regional board of education to complete and submit a State Department of Education-issued "Health Services Program Information Survey". The Act requires the Department of Motor Vehicles to ensure that school bus companies are fulfilling their duty to monitor the Department's periodic reports on drivers who have had their licenses withdrawn, suspended, or revoked.

PUBLIC ACT 17-14: AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE DEPARTMENT OF EDUCATION. Among other things, this Act, which generally took effect on July 1, 2017: (1) removes from the definition of "student absence" for truancy/attendance purposes any in-school suspension of at least one-half day; (2) removes the annual April 15 reporting deadline for regional education service centers to submit Open Choice seat availability to the State Department of Education; (3) continues, with some revisions, a supplemental magnet transportation grant to the Capitol Region Education Council; and (4) moves the administration of the statewide science mastery exam from Grade 10 to Grade 11, commencing with the 2018-19 school year.

IMPACT: School districts may (again) have to revise their attendance/absenteeism policies.

PUBLIC ACT 17-202: AN ACT CONCERNING THE USE OF RESPECTFUL AND PERSON-FIRST LANGUAGE. Among other things, this Act, which takes effect on October 1, 2017, updates the terminology used in various statutes by, among other things, substituting the terms "persons with disabilities" for "handicapped persons," "deaf and hard of hearing" for "hearing impaired" and "older person" for "elderly person."

PUBLIC ACT 17-13: AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE STATUTES RELATING TO EDUCATION AND EARLY CHILDHOOD.

This Act, which took effect on July 1, 2017, makes merely technical changes to certain education and early childhood statutes.

CRIMINAL STATUTES GOVERNING "SEXTING"

PUBLIC ACT 17-25: AN ACT CONCERNING "SEXTING" BY A CHILD. This Act, which takes effect on October 1, 2017, eliminates the lower age limits in the criminal laws prohibiting the possession or transmission of child pornography by a minor (so-called "sexting").

IMPACT: School districts may need to revise their discipline/expulsion policies with respect to sexting.

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EARLY CHILDHOOD

SPECIAL ACT 17-1: AN ACT CONCERNING THE DEVELOPMENT OF A PLAN FOR UNIVERSAL PRESCHOOL. This Act, which took effect on July 1, 2017, requires 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 submitting its plan and recommendations to the General Assembly's Education Committee by January 1, 2019.

PUBLIC ACT 17-41: AN ACT CONCERNING REVISIONS TO THE STAFF QUALIFICATIONS REQUIREMENT FOR EARLY CHILDHOOD EDUCATORS. This Act, which took effect on July 1, 2017, allows an individual who holds a bachelor's degree and has completed 12 credits or more in early childhood education or child development to satisfy the staff qualifications requirement for early childhood educators.

PUBLIC ACT 17-101: AN ACT CONCERNING EARLY LITERACY. This Act, which took effect on July 1, 2017, (1) requires that the results of the reading instruction/literacy survey be distributed to teachers and supervisors in order to inform such teachers' professional development in reading instruction; and (2) establishes a reading readiness program that provides tiered supports in early literacy to school districts designated as an alliance school district and to each school within the "Commissioner's Network" of schools.

TECHNICAL HIGH SCHOOLS

PUBLIC ACT 17-237: AN ACT CONCERNING THE ESTABLISHMENT OF THE TECHNICAL HIGH SCHOOL SYSTEM AS AN INDEPENDENT AGENCY. This Act, which took effect on July 1, 2017, will convert the Connecticut Technical High School System into an independent state agency, separate and apart from the State Board of Education. The System will be renamed the "Connecticut Technical Education and Career System", and its high schools will be renamed "technical education and career schools". There will be a two-year transition period, during which the System will remain under the State Board of Education's oversight, with the System becoming a fully independent agency (with its own executive director and budget) effective with the 2019-2020 school year.

PUBLIC ACT 17-100: AN ACT ESTABLISHING A DIVISION OF POSTSECONDARY EDUCATION PROGRAMS WITHIN THE TECHNICAL HIGH SCHOOL SYSTEM. This Act, which took effect upon passage (July 5, 2017), establishes a post-secondary vocational programs division within the technical high school system, and would 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.

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TASK FORCES AND STUDIES

PUBLIC ACT 17-67: AN ACT CREATING AN ADVISORY COUNCIL RELATING TO DIGITAL CITIZENSHIP, INTERNET SAFETY AND MEDIA LITERACY. This Act, which took effect on July 1, 2017, establishes a “Digital Citizenship, Internet Safety and Media Literacy Advisory Council” within the Department of Education, which will provide recommendations to the State Board of Education regarding: (1) best practices relating to instruction in digital citizenship, Internet safety and media literacy; and (2) methods of instructing students to “safely, ethically, responsibly and effectively use media and technology resources.”

SPECIAL ACT 17-6: AN ACT ESTABLISHING A TASK FORCE TO STUDY VOLUNTARY ADMISSIONS TO THE DEPARTMENT OF CHILDREN AND FAMILIES. This Act, which took effect upon passage (June 20, 2017), establishes a task force to study the voluntary services program operated by the Department of Children and Families.

EMPLOYMENT LAW

EMPLOYMENT DISCRIMINATION

PUBLIC ACT 17-118: AN ACT CONCERNING PREGNANT WOMEN IN THE WORKPLACE. This Act, which takes effect on October 1, 2017, expands the non-discrimination protections and accommodations employers must make for pregnant employees. The Act expands the pregnancy discrimination/ accommodations protections to include lactation. The Act lists specific “reasonable accommodations” an employer may be obligated to provide (assuming the employer cannot establish an “undue hardship”), including permission to sit while working, more frequent or longer breaks, periodic rest, assistance with manual labor, job restructuring, light duty assignments, modified work schedules, temporary transfers to less strenuous or hazardous work, time off to recover from childbirth, or break time and appropriate facilities for expressing breast milk. The Act also explicitly prohibits employers from: (1) denying employment opportunities to an employee or person seeking employment due to the employee’s request for a reasonable accommodation due to her pregnancy; (2) forcing an employee or person seeking employment affected by pregnancy to accept a reasonable accommodation if the employee or person seeking employment does not have a known limitation related to her pregnancy, or does not require a reasonable accommodation to perform the essential duties related to her employment; (3) requiring an employee to take a leave of absence if a reasonable accommodation can be provided in lieu of such leave; and (4) retaliating against an employee in the terms, conditions or privileges of her employment based upon such employee’s request for a reasonable accommodation.

IMPACT: It is unclear if this Act actually imposes any additional mandates, but employers as always should carefully consider requests for leave and accommodations made by pregnant employees.

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PUBLIC ACT 17-127: AN ACT CONCERNING DISCRIMINATORY PRACTICES AGAINST VETERANS, LEAVES OF ABSENCE FOR NATIONAL GUARD MEMBERS, APPLICATION FOR CERTAIN MEDICAID PROGRAMS AND DISCLOSURE OF CERTAIN RECORDS TO FEDERAL MILITARY LAW ENFORCEMENT. This Act, which takes effect on October 1, 2017, includes a prohibition against discrimination on the basis of veteran's status in the various state statutes prohibiting discrimination (including employment and public accommodations), with such discrimination claims being within the jurisdiction of the Commission on Human Rights and Opportunities. The Act also extends the state military leave provisions applicable to employers to cover leave by an employee who is serving in another state's National Guard.

IMPACT: Employers may need to revise their non-discrimination and equal employment opportunity policies (if such policies do not already include veteran's status as a protected classification).

WORKERS' COMPENSATION

PUBLIC ACT 17-27: AN ACT CONCERNING WITHHOLDING WORKERS' COMPENSATION INCOME FOR CHILD SUPPORT. This Act, which takes effect on January 1, 2018, expressly permits the withholding of child support from workers' compensation benefits.

MUNICIPALITIES

PUBLIC ACT 17-180: AN ACT CONCERNING NOTIFICATION TO THE POLICE OFFICER STANDARDS AND TRAINING COUNCIL. This Act, which takes effect on October 1, 2017, requires local and state law enforcement units to inform the Police Officer Standards and Training Council ("POST") if they know that a former police officer is applying for a job after the officer was dismissed (or resigned while under investigation) for certain specified serious misconduct.

PUBLIC ACT 17-142: AN ACT REQUIRING ADMINISTRATORS OF CERTAIN RETIREMENT PLANS TO DISCLOSE CONFLICTS OF INTEREST. This Act, which takes effect on October 1, 2017, requires companies that administer Section 403(b) retirement plans for "political subdivisions" of the state (such as public school districts) to disclose (1) the fee ratio and return, net of fees, for each investment under the plan, and (2) fees paid to any person who provides investment advice (whether directly or through publications) to plan participants. Such disclosures must be made upon plan enrollment and at least annually thereafter.

PUBLIC ACT 17-107: AN ACT AUTHORIZING THE FUNDING OF UNFUNDED ACCRUED MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM LIABILITIES BY MUNICIPALITIES. This Act, which took effect on July 1, 2017, allows municipalities that have accrued an unfunded liability to the Municipal Employees Retirement System ("MERS") as of July 1, 2017 to issue bonds to pay for all or part of the unfunded liability, and sets forth procedures for the authorization and issuance of such bonds.

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FREEDOM OF INFORMATION ACT

PUBLIC ACT 17-86: AN ACT CONCERNING APPEALS UNDER THE FREEDOM OF INFORMATION ACT INVOLVING NOTICE OF MEETINGS. This Act, which takes effect on October 1, 2017, provides that a person bringing a complaint with the Freedom of Information Commission concerning an “unnoticed or secret meeting” must do so within 30 days after the person receives “actual or constructive notice” of the meeting taking place.

TASK FORCES AND STUDIES

PUBLIC ACT 17-207: AN ACT CONCERNING THE WORKFORCE DEVELOPMENT SYSTEM IN THE STATE OF CONNECTICUT. This Act, which took effect on July 1, 2017, establishes a task force to study the effectiveness, impact, and cohesiveness of workforce development programs and initiatives in the state.

SPECIAL ACT 17-15: AN ACT CONCERNING COMMUNITY REENTRY BY PERSONS WHO WERE INCARCERATED. This Act, which takes effect on October 1, 2017, requires the State’s Commission on Equity and Opportunity to study and recommend ways to provide 1) persons recently released from correctional facilities with enhanced employment opportunities, and 2) tax incentives to employers who provide employment opportunities to persons recently released from correctional facilities.

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