

NEW MILFORD BOARD OF EDUCATION
New Milford Public Schools
50 East Street
New Milford, Connecticut 06776

POLICY SUB-COMMITTEE
MEETING NOTICE

DATE: September 3, 2019
TIME: 6:45 P.M.
PLACE: Lillis Administration Building - Room 2

RECEIVED
TOWN CLERK
2019 AUG 29 P 12:08
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NEW MILFORD, CT

AGENDA

New Milford Public Schools Mission Statement

The mission of the New Milford Public Schools, a collaborative partnership of students, educators, family, and community, is to prepare each and every student to compete and excel in an ever-changing world, embrace challenges with vigor, respect and appreciate the worth of every human being, and contribute to society by providing effective instruction and dynamic curriculum, offering a wide range of valuable experiences, and inspiring students to pursue their dreams and aspirations.

1. Call to Order

2. Public Comment

An individual may address the Board concerning any item on the agenda for the meeting subject to the following provisions:

- A. A three-minute time limit may be allocated to each speaker with a maximum of twenty minutes being set aside per meeting. The Board may, by a majority vote, cancel or adjust these time limits.
- B. If a member of the public comments about the performance of an employee or a Board member, whether positive, negative, or neutral, and whether named or not, the Board shall not respond to such comments unless the topic is an explicit item on the agenda and the employee or the Board member has been provided with the requisite notice and due process required by law. Similarly, in accordance with federal law pertaining to student confidentiality, the Board shall not respond to or otherwise discuss any comments that might be made pertaining to students.

3. Discussion and Possible Action

A. Policies Recommended for Revision and Approval at Initial Board Presentation in accordance with Board Bylaw 9311:

1. 1331 Smoking
2. 4112.5 Criminal History Inquiries
3. 4118.232 Smoking
4. 5114 Removal/Suspension/Expulsion
5. 5118 Nonresident Students
6. 5118.1 Homeless Students
7. 5141.21 Administration of Medication
8. 6111 School Calendar

B. Policies for Review:

1. 1700 Possession of Firearms on School Property Prohibited
2. 1800 Animals on School Property

4. Discussion

A. Policy Series for Next Review

5. Item of Information

A. Pullman & Comley School Law Alert – August 5, 2019

6. Public Comment

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7. Adjourn

Sub-Committee Members: Tammy McInerney, Chairperson
Joseph Failla
Wendy Faulenbach
J.T. Schemm

Alternates: Bill Dahl
Angela C. Chastain

**RECOMMENDED FOR REVISION AND
APPROVAL AT INITIAL BOARD PRESENTATION**

Language in **RED** constitutes an addition

COMMENTARY: Public Act 19-13 prohibits smoking and vaping on school grounds (not just within school buildings) and within child care centers. This prohibition applies at all times. The suggested amendments below are meant to correspond to the new statutory language.

1331(a)

Community Relations

Smoking

The Board of Education is convinced, on the basis of substantial scientific and medical evidence, that smoking poses a serious hazard to the health of smokers and non-smokers alike. In addition, the Board believes that a school system, as an institution committed to the positive growth and development of young people that it serves.

For the purpose of this policy, the term "smoking" includes the use of vapor products and electronic devices that simulate smoking by delivering nicotine or other substances by the inhalation of a vapor.

Students

There shall be no smoking or any other unauthorized use of tobacco by students in any school building, **while on school grounds, or while in a school vehicle at any time, or on any school grounds or at any time off school grounds** when the student is subject to the supervision of designated school personnel, such as when the student is at any school function, extracurricular event, field trip, or school related activity such as a work-study program. **These smoking and unauthorized use of tobacco restrictions shall apply at all times regardless of whether or not school is in session.**

An ongoing program of student support and counseling will be offered to provide support for students who wish to break the smoking habit.

Staff and Public

It is the policy of the Board of Education, consistent with Connecticut General Statutes, to prohibit smoking within school buildings, **within child care centers at all times, and to prohibit smoking and** on school grounds **at all times. while school is in session or student activities are conducted.** Breaks by employees to smoke or use tobacco products are considered recreational activities. If an employee takes a break from work to smoke or use tobacco products or leaves school grounds at any time for any reason other than district business, including to smoke or use tobacco products, he/she will not be considered to be acting within the normal course and scope of employment.

Community Relations

Smoking

Legal Reference: Connecticut General Statutes

19a-342 Smoking prohibited in certain places. Signs required. Penalties.

21a-242 Schedules of controlled substances.

53-198 No smoking on buses

14-275c-2 Regulations of Department of Transportation

~~Public Act 14-76, "An Act Concerning the Governor's Recommendations Regarding Electronic Nicotine Delivery Systems and Youth Smoking Prevention."~~

Public Act 19-13 An Act Prohibiting the Sale of Cigarettes, Tobacco Products, Electronic Nicotine Delivery Systems and Vapor Products to Persons Under Age Twenty-One

Policy adopted: May 7, 2001
Policy revised: December 10, 2002
Policy revised: June 9, 2009
Policy revised: October 15, 2013
Policy revised: October 14, 2014

NEW MILFORD PUBLIC SCHOOLS
New Milford, Connecticut

**RECOMMENDED FOR REVISION AND
APPROVAL AT INITIAL BOARD PRESENTATION**

Language in **RED** constitutes an addition

COMMENTARY: The below changes reflect amendments to Connecticut's background check law made pursuant to Public Act 19-91. This Act became effective July 1, 2019 but has yet to be fully recorded in the General Statutes so later changes may be required.

The Act requires that Boards of Education mandate that applicants state in writing whether they have been convicted of a crime or if charges are pending against them at the time of application, and contains additional provisions clarifying the background check process for student teachers and persons who provide services involving direct student contact.

41125(a)

42125(a)

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

I. Definitions

1. "Sexual misconduct" means any verbal, nonverbal, written or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature and any other sexual, indecent or erotic contact with a student.
2. "Abuse of a child or youth" means (a) inflicting physical injury or non-accidental injuries; (b) inflicting injuries that do not match the story associated with their origin; or (c) maltreatment, including malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment, or cruel punishment.
3. "Neglect of a child or youth" means (a) abandonment; (b) denial of proper care and attention physically, educationally, emotionally, or morally; or (c) allowing the child to live under conditions, circumstances, or associations injurious to the child's well-being.
4. "Abuse and neglect" also means sexual assault as defined in the Connecticut General Statutes (Conn. Gen. Stat. §§ 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a).

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

5. "Former employer" means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, the state, any political subdivision of the state, any governmental agency, or any other entity that such applicant was employed by during any of the previous twenty years prior to applying for a position with the Board of Education.

I. Background Checks

The New Milford Public School System requires all applicants for employment to: 1. State **in writing** whether they have ever been convicted of a crime or whether criminal charges are pending against them **at the time of such application and, if charges are pending, to state the charges and the court in which such charges are pending**; 2. submit to a records check of the Department of Children and Families ("DCF") child abuse and neglect registry before hire and; 3. submit to satisfactory state and national criminal history records checks within thirty days from the date of initial employment. Additionally, applicants for positions involving direct student contact must provide the Board with information, authorizations and releases allowing the Board to investigate an applicant's abuse, neglect or sexual misconduct history prior to hire.

A. Criminal History Checks

When stating whether they have ever been convicted of a crime or whether criminal charges are pending against them, applicants must disclose convictions and charges inside or outside the State of Connecticut. Applicants must specify the relevant jurisdiction, approximate date, location and nature of each conviction or charge.

Applicants must also state if they are enrolled in a program of deferred adjudication (e.g., accelerated rehabilitation, pre-trial drug or alcohol education pursuant to C.G.S. §54-56g), and, if so, identify the jurisdiction in which such program is pending and provide an explanation of the nature of such program.

Applicants are not required to disclose the existence of criminal charges or convictions if the records have been erased and the school system will not automatically refuse employment to an applicant because such applicant had a prior arrest, criminal charge or conviction, the records of which were erased. Specifically, applicants will not be required to disclose the existence of any arrests, criminal charges or convictions that have been erased pursuant to Connecticut General Statutes §§ 46b-146, 54-76o, or 54-142a which includes erasure of (a) a finding of delinquency or that a child was a member of a family with service needs, (b) an adjudication as a youthful offender, (c) a criminal

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

charge that has been dismissed or nulled, (d) a criminal charge for which the applicant had been found not guilty, and (e) a conviction for which the applicant received an absolute pardon.

All applicants are required to submit to satisfactory state and national criminal history records checks within thirty days from their date of employment. ~~This requirement applies to workers who are placed within a school under a public assistance employment program, who are employed by a provider of supplemental service pursuant to the No Child Left Behind Act or who are in a nonpaid, noncertified position completing preparation requirements for the issuance of an educator certificate where such workers perform services involving direct student contact.~~ Such checks will include fingerprinting or any other method of positive identification required by the State Police Bureau of Identification and the Federal Bureau of Investigation and will be at the expense of the employee. Fingerprinting and submission to state and national records checks do not apply to ~~students employed by the school district where the student attends school~~ **New Milford Public Schools' students employed by the district or persons employed as teachers for noncredit adult classes or adult education activities who are not required to hold teaching certificates for their positions.** Security check and fingerprinting activities shall be performed by Board personnel in accordance with applicable administrative regulations. Additionally, criminal justice information accessed or maintained by the New Milford Public Schools shall be maintained in accordance with applicable administrative regulations.

A copy of any notice of a conviction of a crime by a person holding a certificate, authorization or permit issued by the State Department of Education or a person employed by a provider of supplemental services shall be sent to the State Board of Education.

Criminal history records checks notifying the school system of a conviction previously not disclosed by the employee or a conviction that is related to the employee's fitness for the job are grounds for termination of employment. When a certified employee's contract of employment is terminated for such reason, the termination will be conducted in accordance with the statutory provisions governing certified-employee terminations found in section 10-151 of the Connecticut General Statutes. When a non-certified employee is dismissed for such reason, the employee will be notified of the reason for dismissal.

B. Abuse, Neglect or Sexual Misconduct Inquiries

In addition to criminal background investigations, the school system performs employment reference checks before hiring applicants. Prior to offering employment to any applicant the Board shall make a documented good faith effort to contact each current and any former employer of the applicant that was a local or regional board of education, governing council of a state or local charter school or interdistrict magnet school operator or if such employment otherwise caused the applicant

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

to have contact with children. The Board shall not offer employment to an applicant for a position, including any position which is contracted for, if such applicant would have direct student contact without first performing the activities described in this section.

1. List of Prior School Employers: At the outset of the application process the Board shall require applicants for positions having direct student contact to provide the Board with a list of the name, address and telephone number of each current or former employer, if such current or former employer was a local or regional board of education, governing council of a state or local charter school or interdistrict magnet school operator or if such employment otherwise caused the applicant to have contact with children.
2. Contact Authorization: In addition to providing the Board with a list of current and prior school employers, applicants for positions having direct student contact must also provide the Board with written authorization that consents to and authorizes the disclosure of certain information by the employers identified in the list of school employers described above. Such authorization must authorize the identified employers to provide the Board with the following information:
 - a. The dates of employment of the applicant;
 - b. A statement as to whether the employer has knowledge that the applicant:
 - (i) was the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency or municipal police department or which has been substantiated;
 - (ii) was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct; or

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

(iii) has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct.

3. State Department of Education Authorization: Additionally, applicants for positions having direct student contact must provide the Board with written authorization that consents to and authorizes disclosure by the State Department of Education ("SDE") of information and related records concerning:
 - a. The applicant's eligibility status for employment for a position requiring a certificate, authorization or permit issued by the State Board of Education;
 - b. Whether the SDE has knowledge that a finding of abuse or neglect or of sexual molestation has been substantiated by DCF against the applicant and any information concerning such a finding; and
 - c. Whether the SDE has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.
4. Release: Applicants for positions having direct student contact must further provide the Board with written authorization that releases the employers identified in the applicant's current and former employer list as described above and the SDE from liability that may arise from such disclosure or release of records pursuant to the preceding paragraphs.
5. Written Statement Concerning Abuse or Neglect or Sexual Misconduct: Finally applicants for positions having direct student contact must provide the Board with a written statement of whether he or she:

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

- a. Has been the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated;
 - b. Has ever been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by DCF, or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated pursuant to Section 17a-101g of the Connecticut General Statutes of abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct; or
 - c. Has ever had a professional or occupational license or certificate suspended or revoked or has ever surrendered such a license or certificate while an allegation of abuse or neglect was pending or under investigation by the SDE or an investigation of sexual misconduct was pending or under investigation, or due to an allegation substantiated by the SDE of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct.
6. Prior Employer Contact: Board personnel shall conduct a review of the employment history of the applicant by making a good faith effort to contact those employers listed by the applicant as required above. Such review shall be conducted using a form developed by the SDE. Such review may be conducted by Board personnel either telephonically or through written communication. A good faith effort requires that Board personnel make at least three telephonic requests of listed prior employers on three separate days.
7. State Department of Education Contact: Board personnel shall request that the SDE provide the Board with information concerning:
 - a. The eligibility status for employment of any applicant for a position requiring a certificate, authorization or permit issued by the State Board of Education;

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

- b. Whether the SDE has knowledge that a finding has been substantiated by DCF of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding; and
- c. Whether the SDE has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.

The Board shall not offer employment to any applicant who had any previous employment contract terminated by a local or regional board of education, governing council of a state or local charter school or interdistrict magnet school operator or who resigned from such employment if such person has been convicted of a violation of Connecticut General Statutes section 17a-101a, when an allegation of abuse or neglect or sexual assault has been substantiated.

C. Student Teachers

The Board shall require each student who is enrolled in a teacher preparation program and who seeks to complete his or her student teaching experience with the district to 1. State in writing whether they have ever been convicted of a crime or whether criminal charges are pending against them at the time of such application and, if charges are pending, to state the charges and the court in which such charges are pending; 2. submit to a records check of the DCF child abuse and neglect registry before such student begins his or her student teaching experience and; 3. submit to satisfactory state and national criminal history records checks within sixty days from the date of such student begins his or her student teaching experience.

D. Service Providers

The Board shall require any person who will perform a service involving direct contact with students to: 1. State in writing whether they have ever been convicted of a crime or whether criminal charges are pending against them at the time of such application and, if charges are pending, to state the charges and the court in which such charges are pending; 2. submit to a records check of the DCF child abuse and neglect registry before such person performs a service involving direct contact with students, and; 3. submit to satisfactory state and national criminal history records checks before such person performs a service involving direct contact with students.

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

II. State Department of Education Notification

Should the Board receive information that an applicant for a position with the Board or an employee of the Board has been disciplined for a finding of abuse or neglect or sexual misconduct it shall notify the SDE of such information.

III. Temporary Employment Pending Background Check Inquiry

- A. The Board may employ or contract with an applicant on a temporary basis for a period not to exceed ninety days, pending the Board's review of requested information as described above, provided that prior to the commencement of employment:
1. The applicant has provided the Board with all requested information, authorizations and releases;
 2. The Board has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment with the Board; and
 3. The applicant affirms that the applicant is not disqualified from employment with the Board.

IV. Board Responses to Background Check Inquiries

- A. Background Check Inquiries From Local and Regional Boards of Education, Charter and Magnet Schools

The Board authorizes and directs its human resources personnel to provide the following information concerning a current or former Board employee to representatives of a local or regional board of education, governing council of a state or local charter school or interdistrict magnet school operator if such information is requested pursuant to a pre-employment background check inquiry:

1. Dates of employment;
2. Positions held with the Board;
3. Salary or rate of pay;

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

4. A statement as to whether the Board has knowledge that the current or former employee:
 - (a) has been the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency or municipal police department or which has been substantiated;
 - (b) has been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct;
 - (c) has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct;
5. Any other information that the Board has concerning a finding of abuse or neglect or sexual misconduct by a subject of any such inquiry.

B. Background Check Inquiries From Contractors

The Board authorizes and directs its human resources personnel to provide any information the Board has concerning whether there was a finding of abuse or neglect or sexual misconduct against a current or former Board employee to representatives of a contractor that places applicants in positions involving direct student contact if such information is requested pursuant to a pre-employment background check inquiry conducted by the contractor.

V. Substitute Teachers

A. Criminal History Checks

Substitute teachers may satisfy the requirement for state and national criminal history investigations by submitting to the Board the results of state and national criminal history records checks

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

completed within the year prior to employment with the Board. The Board considers substitute teachers to be continuously employed for purposes of criminal history records check requirements as long as the Board employs him or her at least one day of each school year. Notwithstanding their continuous employment, all substitute teachers must submit to state and national criminal history record checks at least once every five years.

B. Abuse, Neglect or Sexual Misconduct Inquiries

The Board shall not offer employment to a person as a substitute teacher unless such person and the Board have complied with the abuse, neglect and sexual misconduct investigation requirements set forth in Section I.B. of this policy. The Board shall determine which such persons are employable as substitute teachers and maintain a list of such persons. The Board shall only hire persons as substitute teachers who are listed on such list. Such person shall remain on such list as long as such person is continuously employed by the Board and as long as the Board does not have any knowledge as to why a person should be removed from such list.

VI. Prohibitions on Employment

The Board shall NOT employ a person whose employment contract was previously terminated by a board of education, governing council of a state or local charter school, interdistrict magnet school operator or other school employer or who resigned from such employment if such person:

Has been convicted of a crime involving an act of child abuse or neglect as described in Conn. Gen. Stat. § 46b-120 or sexual assault against a student being educated by a local or regional board of education or technical high school other than as part of an adult education program as described in Conn. Gen. Stat. §§53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a; or has been convicted of the crime of failing to make a mandated report in a timely manner or intentionally and unreasonably interfering with or preventing the making of a mandated report in violation of Conn. Gen. Stat. §17a-101a regardless of whether the allegation of abuse or neglect or sexual assault has been substantiated.

Legal References: Connecticut General Statutes:

29-17a. Criminal history records checks. Procedure. Fees

31-51i Erased Criminal Records

10-221d Criminal history and child abuse and neglect registry records checks of school personnel. Fingerprinting. Termination or dismissal.

4112.5(k)
4212.5(k)

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

Denial of application for and revocation of certification.

10-222c Hiring Policy

Public Act 19-91 An Act Concerning Various Revisions and Additions to the Education Statutes

Policy adopted: December 9, 2003
Policy revised: October 18, 2005
Policy revised: June 14, 2011
Policy revised: October 13, 2015
Policy revised: October 18, 2016
Policy revised: February 27, 2018

NEW MILFORD PUBLIC SCHOOLS
New Milford, Connecticut

**RECOMMENDED FOR REVISION AND
APPROVAL AT INITIAL BOARD PRESENTATION**

Language in **RED** constitutes an addition

COMMENTARY: Public Act 19-13 prohibits smoking and vaping on school grounds (not just within school buildings) and within child care centers. This prohibition applies at all times. The existing policy language arguably already covers this change. The suggested amendments below are meant to correspond to the new statutory language.

4118.232

4218.232

Personnel-Certified/Non-Certified

Smoking

The New Milford Board of Education does not permit smoking or other use of tobacco products ~~in school facilities and~~ **within school buildings**, on school grounds **or within or on the grounds of a child care facility**. **This prohibition applies both while school is in session and outside of school hours**. Employees are also prohibited from smoking on school transportation or during any school sponsored activity.

For the purpose of this policy, the term "smoking" includes the use of vapor products and electronic devices that simulate smoking by delivering nicotine or other substances by the inhalation of a vapor.

An employee who violates this policy shall be subject to discipline, up to and including discharge.

Legal References: Connecticut General Statutes

19a-342 Smoking Prohibited

53-198 No smoking on buses

~~Public Act 14-76, "An Act Concerning the Governor's Recommendations Regarding Electronic Nicotine Delivery Systems and Youth Smoking Prevention."~~

Public Act 19-13 An Act Prohibiting the Sale of Cigarettes, Tobacco Products, Electronic Nicotine Delivery Systems and Vapor Products to Persons Under Age Twenty-One

Policy adopted: October 18, 2005

NEW MILFORD PUBLIC SCHOOLS

Policy revised: October 14, 2014

New Milford, Connecticut

**RECOMMENDED FOR REVISION AND
APPROVAL AT INITIAL BOARD PRESENTATION**

Language in **RED** constitutes an addition

COMMENTARY: Public Act 19-91 contains a simple but very significant amendment to the existing student expulsion law. The amendment, which is effective for this school year, provides that a bBoard of Education may only expel a student for conduct on campus or at a school sponsored activity if such conduct violates a publicized Board policy AND is seriously disruptive of the educational process or endangers persons or property. This is a subtle but very important change because it significantly raises the bar for the standard for on campus conduct necessary for a student expulsion. Under the new law, serious disruption of the educational process is not enough by itself, nor is a violation of a publicized Board policy. As such, the new law will more closely resemble the standard for expulsion for off-campus conduct. The changes below are designed to align the Board's policy with the new law.

5114(a)

Students

Removal/Suspension/Expulsion

SECTION I DEFINITIONS

- A. **"Bullying"** is defined as (A) the repeated use by one or more students of a written, oral or electronic communication directed at or referring to another student in the school district; or (B) a physical act or gesture by one or more students repeatedly directed at another student in the school district that (1) causes physical or emotional harm to such student or damage to the student's property; (2) places such student in reasonable fear of harm to himself/herself or of damage to his/her property; (3) creates a hostile environment at school for such student; (4) infringes on the rights of such student at school; or (5) substantially disrupts the educational process or the orderly operation of the school. Bullying shall include but not be limited to a written, oral or electronic communication or physical act or gesture based on any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socio-economic status, academic status, physical appearance, or mental, physical developmental or sensory disability or by association with an individual or group who has or is perceived to have one or more of such characteristics.
- B. **"Cyberbullying"** is defined as any act of bullying through the use of the Internet, interactive and digital technologies, cellular mobile telephone or other mobile electronic devices or any electronic communications.
- C. **"Dangerous instrument"** means any instrument, article or substance which, under the circumstances in which it is used or attempted or threatened to be used, is capable of causing death or serious physical injury, and includes a motor vehicle and a dog that has been commanded to attack.
- D. **"Days"** is defined as days when school is in session.

Students

Removal/Suspension/Expulsion

- E. **"Deadly weapon"** means any weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon, or metal knuckles.
- F. **"Emergency"** is defined as a situation under which the continued presence of the student in the school imposes 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 student as possible.
- G. **"Exclusion"** is defined as any denial of public school privileges to a student for disciplinary purposes.
- H. **"Expulsion"** is defined as an exclusion from school privileges for more than ten (10) consecutive school days and shall be deemed to include, but not be limited to, exclusion from the school to which such student was assigned at the time such disciplinary action was taken, provided such exclusion shall not extend beyond a period of one (1) calendar year. Such period of exclusion may extend to the school year following the school year in which such exclusion was imposed.
- I. **"Firearm"** means 1) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; 2) the frame or receiver of any such weapon; 3) any firearm muffler or firearm silencer; or 4) any destructive device. Firearm does not include any antique firearm. For purposes of this definition "destructive device" means any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than 4 ounces, missile having an explosive or incendiary charge of more than 1/4 ounce, mine, or device similar to any of the weapons described herein.
- J. **"In-school suspension"** is defined as an exclusion from regular classroom activity for not more than ten (10) consecutive school days, but not an exclusion from school, provided such exclusion shall not extend beyond the end of the school year in which such in-school suspension was imposed. An in-school suspension may be served in the school that the pupil attends, or in any school building under the jurisdiction of the Board. An in-school suspension may include reassignment to a regular classroom program in a different school in the school district; such reassignment shall not constitute a "suspension" or "expulsion" under this policy.
- K. **"Martial arts weapon"** means a nunchaku, kama, kasari-fundo, octagon sai, tonfa or chinese star.
- L. **"Possess"** means to have physical possession or otherwise to exercise dominion or control over tangible property.
- M. **"Removal"** is defined as an exclusion from a classroom for all or part of a single class period, provided such exclusion shall not extend beyond 90 minutes.

Students

Removal/Suspension/Expulsion

- N. **"School sponsored activity"** is defined as any activity sponsored, recognized or authorized by the Board and includes activities conducted on or off school property.
- O. **"Suspension"** is defined as an exclusion from school privileges and/or from transportation services for not more than ten (10) consecutive school days, provided such exclusion shall not extend beyond the end of the school year in which such suspension was imposed.

Suspensions shall be in-school suspensions except the Board of Education may authorize the administration of schools under its direction to impose an out-of-school suspension on any pupil in (1) grades three to twelve, inclusive, if, during the suspension hearing, (A) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or (B) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (i) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and (ii) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies; or (2) grades preschool to two, inclusive, if during the hearing, the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons.

- P. **"Vehicle"** means a "motor vehicle" as defined in Section 14-1 of the Connecticut General Statutes, snow mobile, any aircraft, or any vessel equipped for propulsion by mechanical means or sail.

SECTION II REMOVAL FROM CLASS

- A. Each teacher shall have the authority to remove a student from class when such student deliberately causes a serious disruption of the educational process within the classroom, provided that no student shall be removed from class more than six times in any year, nor more than twice in one week unless such student is referred to the building principal, or his/her designee, and granted an informal hearing as set forth in section IV C of this policy.
- B. Whenever any teacher removes a student from the classroom, such teacher shall send the student to a designated area and shall immediately inform the building principal or his/her designee as to the name of the student against whom such disciplinary action was taken and the reason therefore.

SECTION III STANDARDS GOVERNING SUSPENSION AND EXPULSION

- A. Conduct on school grounds or at a school sponsored activity ~~as set forth in Section C below~~ will **may** be cause for suspension ~~and/or expulsion~~ when such conduct:

Students

Removal/Suspension/Expulsion

1. Violates a publicized policy ~~or code of student conduct in effect in the schools~~; or
 2. Seriously disrupts the educational process; or
 3. Endangers persons or property.
- B.** Conduct off school grounds ~~as described in paragraph C below~~ ~~will~~ **may** be cause for suspension ~~and/or expulsion~~ when such conduct:
1. Violates a publicized policy of the Board and;
 2. Seriously disrupts the educational process.
- C.** ~~Conduct on school grounds or at a school sponsored activity may be cause for expulsion when such conduct:~~
1. ~~Violates a publicized policy; and~~
 2. ~~Seriously disrupts the educational process; or~~
 3. ~~Endangers persons or property.~~
- D.** ~~Conduct off school grounds may be cause for expulsion when such conduct:~~
1. ~~Violates a publicized policy; and~~
 2. ~~Seriously disrupts the educational process.~~
- E.** The following conduct is prohibited and will be considered cause for suspension and/or expulsion:
1. Threatening, harassing or intimidating another member of the school community in any manner, including orally, in writing, via electronic communication, or by gestures or other physical behavior such as stalking. Members of the school community include any school employee, fellow student, consultant, volunteer, or visitor to a school;
 2. Use of physical force against another person which is not reasonably necessary for self-defense;
 3. Theft of personal or school property, or taking or attempting to take personal property or money from another person, or from his/her presence, by means of force or fear;
 4. Willfully causing, or attempting to cause, damage to school property;

Students**Removal/Suspension/Expulsion**

5. Possession, use, transmission or being under the influence of any narcotic drug, hallucinogenic drug, performance enhancing drug, amphetamine, barbiturate, marijuana, cocaine, alcoholic beverage, or intoxicant of any kind including inhalants, prescription drugs for which the possessor, user or transmitter has no legal prescription, or drug paraphernalia;
6. Possession or transmission of a facsimile of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, or marijuana;
7. Knowingly being in the presence of those who are in possession of, using, transmitting, or being under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind;
8. Possession or transmission of any weapon, including but not limited to any firearm, deadly weapon, dangerous instrument, martial arts weapon, knife, box cutter, razor, blade, chemical sprays, electroshock weapons or facsimile of any weapon or instrument;
9. Using or copying the academic work of another and presenting it as his/her own without proper attribution;
10. Possessing, smoking or consuming tobacco products or using vapor products and electronic devices that simulate smoking by delivering nicotine or other substances by the inhalation of a vapor on school grounds;
11. Open defiance of the authority of any teacher or person having authority over the student, including verbal abuse;
12. Intentional and successful incitement of truancy by other students;
13. Bullying or cyberbullying, including such conduct that may occur outside of the school setting if such bullying (1) creates a hostile environment at school for the victim; (2) infringes on the rights of the victim at school; or (3) substantially disrupts the education process or the orderly operation of a school;
14. Any violation of the Boards policies prohibiting sexual, racial and other unlawful harassment including any act of harassment based on an individual's race, color, national origin, sex, age, disability, sexual orientation, gender identity or expression or religion;
15. Intentional incitement which results in an unauthorized occupation of any part of a school or other facility owned by any school district;

Students

Removal/Suspension/Expulsion

16. Participation in an unauthorized occupancy of any part of any school or school premises or other building owned by any school district and failure to leave such school premises or other facility promptly after having been directed to do so by the principal or other person in charge of such building or facility;
 17. Making false bomb threats or other threats to the safety of students, staff members and/or other persons;
 18. Unauthorized use of any school computer, computer system, computer software, Internet connection or similar school property system or the use of such property or system for unauthorized or non-school related purposes;
 19. Create, use, access, upload, download, possess, transmit or distribute profane, pornographic, obscene, sexually explicit, harassing, threatening or illegal material or communications including but not limited to electronic data and communications;
 20. Violation of any other Board policy, rule, agreement, or directive dealing with student conduct, including that dealing with conduct on school buses and the use of school district equipment and;
 21. Violation of any federal or state law which would indicate that the violator presents a danger to any person in the school community or to school property.
- D F.** Expulsion proceedings pursuant to section V, shall be required whenever there is reason to believe that any student 1) was in possession of a firearm, deadly weapon, dangerous instrument or martial arts weapon, on school grounds or at a school-sponsored activity; 2) off school grounds, did possess a firearm in violation of Connecticut General Statutes §29-35, or did possess and use such a firearm, dangerous instrument, deadly weapon or martial arts weapon in the commission of a crime; or 3) on or off school grounds, offered for sale or distribution a controlled substance as defined in Connecticut General Statutes, §21a-240(9), whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering or administering is subject to criminal penalties under Connecticut General Statutes §§21a-277 and 21a-278. A student shall be expelled for a period of one calendar year if the Board of Education finds that the student engaged in any of the conduct described herein, provided the period of expulsion may be modified on a case-by-case basis.

In the event it is determined by the Superintendent that a student issued a threat against a member of the school community as described in paragraph C.1., above, the matter shall be referred to law enforcement officials for possible criminal prosecution and the Superintendent shall take all available measures to ensure the safety of persons in the school community in the event of the student's return to school.

Students

Removal/Suspension/Expulsion

- E G.** Students in kindergarten, first and second grade may not be expelled except for mandatory reasons as described in the previous paragraph and in section V below.

SECTION IV SUSPENSION PROCEDURE

- A.** The administration of each school is authorized to invoke suspension for a period of up to ten (10) days, or to invoke in-school suspension for a period of up to ten (10) days, of any student for one or more of the reasons stated in section III, above, in accordance with the procedure outlined in Paragraph C of this section. Moreover, the administration is authorized to suspend a student from transportation services whose conduct while receiving transportation violates the standards set forth in section III, above. The school administration is authorized to immediately suspend any student when there is an emergency as defined in section I, above.

Suspensions shall be in-school suspensions, except an out-of-school suspension may be imposed if (A):

GRADES K to 2:

the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons.

GRADES 3-12:

the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or (B) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (i) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and (ii) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies.

- B.** In the case of suspension, the school administration shall notify the Superintendent within twenty-four (24) hours of the suspension as to the name of the student who has been suspended and the reason for suspension. Any student who is suspended shall be given an opportunity to complete any class work including but not limited to examinations missed during the period of his/her suspension.
- C.** Except in the case of an emergency as defined in section I, above, a student shall be afforded the opportunity to meet with a member of the administration and to discuss the stated charges prior to the effectuation of any period of suspension or in-school suspension. If at such a meeting the student denies the stated charges he/she may at that time present his/her version of the incident(s) upon which the proposed suspension is based. The school administration shall then determine whether or not suspension or in-school suspension is warranted. In determining

Students

Removal/Suspension/Expulsion

the length of a suspension period, the school administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, in-school suspension, suspension or expulsion.

- D. No student shall be suspended more than ten (10) times or a total of fifty (50) days in one school year, whichever results in fewer days of exclusion, unless a hearing as provided in section V(B) of this policy is first granted.
- E. No student shall be placed on in-school suspension more than fifteen (15) times or a total of fifty (50) days in one school year, whichever results in fewer days of exclusion, unless a hearing as provided in section V(B) of this policy is first granted.
- F. Whenever a student is suspended, notice of the suspension and the conduct for which the student was suspended shall be included on the student's cumulative educational record. Such notice shall be expunged from the cumulative educational record if the student graduates from high school.
- G. The administration may shorten or waive the suspension period of a student who is suspended for the first time and who has never been expelled if the student successfully completes a program and any other conditions specified by the administration. Any such program shall be at no expense to the student or his/her parents/guardians. For a student whose suspension period is shortened or waived, the notice of the disciplinary action must be expunged from the cumulative education record if the student graduates from high school or, if the administration chooses, at the time the student completes the specified program and any other conditions required by the administration, whichever is earlier.

SECTION V EXPULSION PROCEDURES

The Board of Education may expel any student in grades three to twelve, inclusive, for one or more of the reasons stated in section III if, in the Superintendent's judgment, such disciplinary action is in the best interests of the school system. An expulsion hearing is required in any instance in which the Superintendent has reason to believe a student in grades kindergarten to twelve, inclusive has engaged in the conduct described in section III (D F). The procedures outlined in Paragraphs A and B, below, shall be followed prior to the effectuation of any expulsion unless an "emergency" as defined in section I, above, exists. If an emergency exists, such a hearing shall be held as soon after the expulsion as possible.

- A. The Board of Education shall notify the student concerned and his/her parents, or the student if he/she has attained the age of eighteen (18), that expulsion is under consideration. Such notice shall contain the information required under Paragraph B of this section, and shall be given at least five (5) business days before the hearing. Three members of the Board of Education shall constitute a quorum for an expulsion hearing. A student may be expelled if a

Students

Removal/Suspension/Expulsion

majority of the Board members sitting in the expulsion hearing vote to expel, except that when only three Board members are presiding at the hearing, a unanimous vote shall be required for expulsion.

- B.** The procedure for any hearing conducted under this section shall be determined by the hearing officer or Board chairperson, as appropriate, but shall include the right to:
1. Notice of the proposed hearing which shall include:
 - a. a statement of the time, place, and nature of the hearing;
 - b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. reference to the particular sections of the Connecticut General Statutes or school policies involved;
 - d. a short and plain statement of the matters asserted, if such matters have not already been provided in a statement of reasons requested by the student; the statement so provided may be limited to a statement of the issues involved if it is not possible to state the issues in detail at the time such notice is served. Upon request from the student concerned a more definite and detailed statement of the issues shall be furnished;
 - e. a statement, where appropriate, that the Board is not required to offer an alternative educational opportunity to any student between the ages of sixteen and eighteen who has been expelled previously or;
 - f. information concerning the parent's or guardian's and the student's legal rights and legal services provided free of charge or at a reduced rate that are available locally and how to access such services;
 2. The opportunity to be heard;
 3. The opportunity to present witnesses and introduce documentary evidence;
 4. The opportunity to cross-examine adverse witnesses and challenge the introduction of documentary evidence;
 5. The opportunity to be represented by an attorney or other advocate; the parent or guardian of the pupil shall have the right to have the expulsion hearing postponed for up to one week to allow time to obtain representation, except that if an emergency exists, such hearing shall be held as soon after the expulsion as possible; and

Students

Removal/Suspension/Expulsion

6. Prompt notification of the decision of the Board of Education which decision shall be in writing if adverse to the student concerned.
- C. The record of any hearing held in an expulsion case shall include the following:
1. All evidence received or considered by the Board of Education, including a copy of the initial letter of notice of proposed expulsion, if any, and a copy of all notices of hearing;
 2. Questions and offers of proof, objections and rulings on such objections;
 3. The decision of the Board of Education rendered after such hearing; and
 4. The official transcript, if any, of proceedings relating to the case or, if these are not transcribed, any recording or stenographic record of the proceedings.
- D. Rules of evidence at expulsion hearings shall include the following:
1. Any oral or documentary evidence may be received by the Board of Education, but as a matter of policy irrelevant, immaterial or unduly repetitious evidence shall be excluded;
 2. The Board of Education shall give effect to the rules of privilege recognized by law;
 3. In order to expedite a hearing, evidence may be received in written form, provided the interest of any party is not substantially prejudiced thereby;
 4. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available provided, however, that any party to a hearing shall be given an opportunity to compare the copy with the original;
 5. A party to an expulsion hearing may conduct cross-examination of witnesses where examination is required for a full and accurate disclosure of the facts;
 6. The Board of Education may take notice of judicially cognizable facts in addition to facts within the Board's specialized knowledge provided, however, the parties shall be notified either before or during the hearing of material noticed, including any staff memoranda or data, and an opportunity shall be afforded to any party to contest the material so noted;
 7. A record of any oral proceedings before the Board of Education at an expulsion hearing shall be made. A transcript of such proceedings shall be furnished upon request of a party with the cost of such transcript to be paid by the requesting party.

Students

Removal/Suspension/Expulsion

- E.** In determining the length of an expulsion, the Board of Education may receive and consider evidence of past disciplinary problems, which have led to removal from a classroom, in-school suspension, suspension, or expulsion.
- F.** Decisions shall be in writing if adverse to the student and shall include findings of fact and conclusions necessary for the decision. Findings of fact made by the Board after an expulsion hearing shall be based exclusively upon the evidence adduced at the hearing.
- G.** Except as provided for in Section VII, any student who is expelled shall be offered an alternative educational opportunity consistent with the requirements of state law.
- H.** Whenever a student is expelled pursuant to the provisions of this policy, notice of the expulsion and the conduct for which the student was expelled shall be included on the student's cumulative educational record. Such notice shall not be expunged at any time if the expulsion was based upon possession of a firearm or deadly weapon and the student was in grade nine through twelve. Such notice shall be expunged from the cumulative educational record if the student graduates from high school. The expulsion notice may be expunged from the student's record prior to graduation if the student has demonstrated to the Board that his/her conduct and behavior in the years following the expulsion warrants expungement.
- I.** Whenever a student against whom an expulsion hearing is pending withdraws from school after notification of such hearing but before the hearing is completed and a decision rendered, notice of the pending expulsion hearing shall be included on the student's cumulative educational record and the Board shall complete the expulsion hearing and render a decision.
- J.** Except in cases where an expulsion is based upon the possession of a firearm or deadly weapon, the Board of Education may shorten the length of or waive the expulsion period of a student who is expelled for the first time and who has never been suspended if the student successfully completes a program and any other conditions specified by the Board. Any such program shall be at no expense to the student or his/her parents/guardians. For a student whose expulsion period is shortened or waived, the notice of the disciplinary action must be expunged from the cumulative education record if the student graduates from high school or, if the Board chooses, at the time the student completes the specified program and any other conditions required by the administration, whichever is earlier. Nothing herein shall be deemed to restrict the ability of the Board to shorten or waive the expulsion period, based upon completion of any program or meeting of conditions, for students who have been previously suspended or expelled, as may be permitted by law and as provided in Subsection L, below.
- K.** The Board of Education may adopt the decision of a student expulsion hearing conducted by another school district, provided that the Board shall hold a hearing pursuant to this policy which shall be limited to a determination of whether the conduct which was the basis for the

Students

Removal/Suspension/Expulsion

expulsion would also warrant expulsion under the policies of the Board. The student shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with statutory requirements and this policy.

- L. In addition to such rights specified in Section J, above, an expelled pupil may apply for early readmission to school. Such readmission shall be at the discretion of the Board of Education; however, the Board may delegate authority for readmission decisions to the Superintendent. If the Board delegates such authority, readmission shall be at the discretion of the Superintendent. The Board or Superintendent, as appropriate, may condition such readmission on specified criteria.
- M. A student requiring special education and related services as described in Connecticut General Statutes §10-76a(5)(A) shall not be referred to an expulsion hearing until a planning and placement team is convened to determine whether the misconduct was caused by the student's disability. If it is determined that the misconduct was caused by the child's disability, the child shall not be referred to an expulsion hearing and shall not be expelled.

The planning and placement team shall reevaluate the child for the purpose of modifying the child's individualized education program to address the misconduct and to ensure the safety of other children and staff in the school. If it is determined that the misconduct was not caused by the student's disability, the student may be expelled in accordance with the provisions of this section applicable to children who do not require special education and related services. Notwithstanding the provisions of Section VII, below, whenever a student requiring such special education and related services is expelled, an alternative educational opportunity, consistent with such child's educational needs shall be provided during the period of expulsion.

- N. Any student who commits an expellable offense and is subsequently committed to a juvenile detention center, the Connecticut Juvenile Training School or any other residential placement for such offense may be expelled using the procedures of this policy. The period of expulsion shall run concurrent with the period of commitment. If a student who committed an expellable offense seeks to return to the school district after participating in a diversionary program or having been detained in a juvenile detention center, the Connecticut Juvenile Training School or any other residential placement and the student has not been expelled for such offense, the district shall allow such student to return and may not expel the student for additional time for such offense.

Students

Removal/Suspension/Expulsion

- O.** A student who has been identified as eligible for school accommodations pursuant to Section 504 of the Rehabilitation Act, shall not be referred to an expulsion hearing until the student's Section 504 Team is convened to determine whether the misconduct was caused by the student's disability. If it is determined that the misconduct was caused by the child's disability, the child shall not be referred to an expulsion hearing and shall not be expelled. Where appropriate, the Section 504 Team shall modify and otherwise review the student's accommodations plan to address the misconduct and to ensure the safety of other children and staff in the school. If it is determined that the misconduct was not caused by the student's disability, the student may be expelled in accordance with the provisions of this section applicable to non-disabled students.

SECTION VI NOTIFICATION TO PARENTS OR GUARDIAN

The parents or guardians of any minor student against whom disciplinary action is taken under this policy shall be given notice of such disciplinary action within twenty-four (24) hours of the time the student was excluded.

SECTION VII ALTERNATIVE EDUCATIONAL OPPORTUNITY

The Board of Education recognizes its obligation to offer any student under the age of sixteen (16) who is expelled an alternative educational opportunity during the period of expulsion, in accordance with the law and applicable State guidelines. Any parent or guardian of such a student who does not choose to have his or her child enrolled in an alternative program shall not be subject to the provisions of section 10-184 of the General Statutes. Any expelled student expelled for the first time who is between the ages of sixteen (16) and eighteen (18) and who wishes to continue his or her education shall be offered an alternative educational opportunity if he or she complies with conditions established by the Board of Education. Such alternative may include, but shall not be limited to, the placement of such student in a regular classroom program of a school other than the one from which the student has been excluded and, for students at least sixteen (16) years of age, placement in an adult education program. Any student participating in an adult education program during a period of expulsion shall not be required to withdraw from school. In determining the nature of the alternative educational opportunity to be offered under this section the Board of Education may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension, or expulsion.

State statutes do not require the Board of Education to offer an alternative educational opportunity to a student between the ages of sixteen (16) and eighteen (18) who has been expelled previously.

If the Board expels a student for the sale or distribution of such a controlled substance as defined in Connecticut General Statutes § 21a-240(9), whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering or administering is subject to criminal penalties under Connecticut General Statutes §§ 21a-277 and 21a-278, the Board shall refer the student to an appropriate state or local agency for rehabilitation, intervention or job

Students

Removal/Suspension/Expulsion

training, or any combination thereof, and inform the agency of its action. If the Board expels a student for possession of a firearm, the Board shall report the violation to the local police department. The Board shall give the name of the student, and a summary of the Board's action in so referring the student, to the Commissioner of Education within thirty (30) days after the student is expelled. The provisions of this section shall not apply to students requiring special education who are described in subdivision (1) of subsection (e) of Connecticut General Statutes §10-76a.

SECTION VIII GUN FREE SCHOOLS ACT

The Board of Education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as is required for purposes of the Gun Free Schools Act of 1994, 20 U.S.C. §7151, et seq.

SECTION IX PRE-SCHOOL PROGRAMS

- A. As used in this section, "preschool program provider" means a local or regional board of education, state or local charter school or interdistrict magnet school that offers a preschool program. No preschool program provider shall expel any child enrolled in such provider's preschool program, except an expulsion hearing shall be conducted, in accordance with the provisions of subsection B, below, whenever there is reason to believe that any child enrolled in such preschool program was in possession of a firearm, on or off school grounds or at a preschool program-sponsored event. Such child shall be expelled for one calendar year if, at the expulsion hearing it is determined, that the child did so possess such a firearm. A preschool program provider may modify the period of expulsion for a child on a case-by-case basis.
- B. An expulsion hearing required under this subsection shall be conducted by (1) the program provider, as set forth above, or (2) the board of education, in accordance with section V above, if (a) the preschool program provider is the board of education, or (b) the preschool program provider is a regional educational service center or a state or local charter school pursuant to an agreement between such preschool program provider and the board of education. Unless an emergency exists, as set forth in section I, above, no child shall be expelled under this subsection without a formal hearing held pursuant to section V. If an emergency exists, such hearing shall be held as soon after the expulsion as possible.
- C. No preschool program provider may authorize a suspension of a child enrolled in such provider's preschool program, unless the suspension is an in-school suspension. Except that an out-of-school suspension may be imposed if the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons.

Students

Removal/Suspension/Expulsion

Legal references: 18 U.S.C. §921 Definitions
 20 U.S.C. §7151, et seq., Gun Free Schools Act
 20 U.S.C. §1415 Individuals with Disabilities Education Act

Connecticut General Statutes

4-176e	through 4-180a, 4-181a Administrative Procedures Act
10-76a	Definitions
10-76d	Duties and powers of boards of education to provide special education programs and services
10-222d	Safe school climate plans. Definitions. School climate assessments
10-233a	Definitions
10-233b	Removal of pupils from class
10-233c	Suspension of pupils
10-233d	Expulsion of pupils
10-233e	Notice as to disciplinary policies and action
10-233f	In-school suspension of pupils. Reassignment
10-233g	Reports of principals to police authority concerning physical assaults upon school employees by students
10-233h	Arrested students
21a-240	Definitions
21a-277	Penalty for illegal manufacture, distribution, sale, prescription, dispensing
21a-278	Penalty for illegal manufacture, distribution, sale, prescription or administration by non-drug-dependent person
53a-3	Definitions
53-206	Carrying of dangerous weapons prohibited
53a-217b	Possession of a weapon on school grounds: Class D felony

Public Act 19-91 An Act Concerning Various Revisions and Additions to the Education Statutes

Students

Removal/Suspension/Expulsion

Policy adopted: June 12, 2001
Policy revised: June 24, 2004
Policy revised: June 12, 2007
Policy revised: November 13, 2007
Policy revised: November 18, 2008
Policy revised: December 14, 2010
Policy revised: October 11, 2011
Policy revised: June 11, 2013
Policy revised: October 14, 2014
Policy revised: October 13, 2015
Policy revised: February 27, 2018

NEW MILFORD PUBLIC
SCHOOLS New Milford,
Connecticut

**RECOMMENDED FOR REVISION AND
APPROVAL AT INITIAL BOARD PRESENTATION**

Language in **RED** constitutes an addition

COMMENTARY: Public Act 19-179 incorporates various provisions of the federal McKinney-Vento Homeless Assistance Act, 42 USC 11434a, into state law. In general, the McKinney-Vento Act gives homeless children the legal right to stay in their “school of origin” in the event of an episode of homelessness. The definition of “homelessness” is very broad and includes students who are forced to live with relatives, friends, etc. Often districts are responsible for the cost of transporting a student to another district when a school in that district is deemed the school of origin.

The suggested changes below and to BOE Policy # 5118.1 are designed to mirror language in state and federal statute on homeless students. The definitions of the terms “homeless children and youths” and “unaccompanied youth” are technical in nature and come directly from the McKinney-Vento Act.

5118(a)

Students

Nonresident Students

~~Definition~~ **Definitions**

A “nonresident student” is a student who:

1. Resides outside of the school district; or
2. Resides within the school district on a temporary basis; or
3. Resides within the school district on a permanent basis but with pay to the person(s) with whom the student is living; or
4. Resides within the school district for the sole purpose of obtaining school accommodations; or
5. Is a child placed by the State of Connecticut Department of Children and Families or by other agencies in a private residential facility. Under this circumstance, however, children may attend local schools with tuition paid by the home district unless a special education student's Planning and Placement Team determines that attendance in local schools and programs does not constitute an appropriate public education in the least restrictive environment. Children not requiring special education who live in town as a result of placement by a public agency, other than another school board and except as provided otherwise in this paragraph, are resident students. Students requiring special education who are placed by a public agency other than another school board may attend local schools, with special education cost reimbursements in accordance with statues, unless the student's Planning and Placement Team determines that attendance in local schools and programs does not constitute an appropriate public education in the least restrictive environment.

Students

Nonresident Students

The term “homeless children and youths”—

(A) means individuals who lack a fixed, regular, and adequate nighttime residence; and

(B) includes—

(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;

(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

The term “unaccompanied youth” includes a homeless child or youth not in the physical custody of a parent or guardian.

Nonresident Attendance Without Tuition

Upon written parental request, nonresident students may be allowed by the Board of Education to attend district schools without tuition under one or more of the following conditions:

1. A family moves from the district after January of the school year, however, if parents so request, a child may complete the marking period regardless of when the family moves from town;
2. A family residing outside of a **the** district has firm plans to move into the school district by November of the current school year as evidenced by a contract to buy, build, rent or lease **a residence within the district**;
3. A student currently enrolled in twelfth grade wishes to complete his or her education in the district; or
4. ~~A family has been identified as "homeless" and wishes to permit his or her child to remain in the district during the period of homelessness.~~ **A student is a homeless child or youth and his or her parent(s) or guardian(s) desire that the student remain enrolled in the district;**
5. **A student is an unaccompanied youth and wishes to remain enrolled in the district.**

Foreign Exchange Students

No tuition is required for foreign exchange students living within the district under the American Field Service Program or under other programs or circumstances approved by the Board.

Students

Nonresident Students

Nonresident Attendance With Tuition

Nonresident students who do not meet one or more criteria under previous sections of this policy, may attend local schools only with tuition payment. The Superintendent may approve nonresident student attendance with tuition if class size, transportation, and other considerations permit, and shall notify the Board of Education of all tuition approvals. Nonresident approval with tuition shall lie for one (1) school year or less. Tuition rates shall be established by the Board annually.

Attendance by a nonresident tuition student may be terminated by Board of Education action, upon recommendation of the Superintendent of Schools, if the Board deems such termination in the best interest of the school district. An adjustment of tuition on a per diem basis will be made in this instance.

Evidence of Residency

The Superintendent of Schools or his/her designee may require documentation of family and/or student residency, including affidavits, provided that prior to a request for evidence of residency the parent or guardian, relative or non-relative, emancipated minor, ~~or~~ student eighteen (18) years of age or older **or unaccompanied youth** shall be provided with a written statement of why there is reason to believe the student(s) may not be entitled to attend school in the district. An affidavit may require a statement or statements with documentation that there is bona fide student residence in the district, that the residence is intended to be permanent, that it is provided without pay, and that it is not for the sole purpose of obtaining school accommodations. This additional documentation may include, but is not limited to, at least three of the following:

1. Driver's License
2. Car/Vehicle Registration
3. New Milford Tax Bill
4. At least two utility bills, such as electric, telephone, cable television or water
5. Certificate of Occupancy
6. Lease/Rental Agreement

Removal of Nonresident Student From District Schools

If after a careful review of affidavits and other available evidence, the Superintendent of Schools or his/her designee believes a student is not entitled to attend local schools, the parent or guardian, the student if an emancipated minor, ~~or~~ a student eighteen (18) years of age or older **or unaccompanied youth** shall be informed in writing that, as of a particular date, the student may no longer attend local schools, and the Superintendent shall notify the Board of Education, (if known), where the child should attend school. If after review district residency is established by the evidence, the parent or guardian, the student if an emancipated minor, ~~or~~ a student eighteen (18) years or older **or unaccompanied youth** shall be so informed.

Students

Nonresident Students

If a student is removed from a district school for residency reasons the Superintendent of Schools or his/her designee shall: 1) inform the parent, guardian, emancipated minor, or student eighteen (18) years of age or older or unaccompanied youth of hearing rights before the Board of Education and that the student/s may continue in local schools pending a hearing before the Board of Education if requested in writing by the parent, guardian, emancipated minor, or student eighteen (18) years of age or older or unaccompanied youth 2) that upon request, a transcript of the hearing will be provided 3) that a local Board of Education decision may be appealed to the State Board and that the student/s may continue in local schools pending a hearing before the State Board if requested in writing by the parent, guardian, emancipated minor, or student eighteen (18) years of age or older or unaccompanied youth 4) that if the appeal to the State Board of Education is lost, a per diem tuition will be assessed for each day a student attended local schools when not eligible to attend.

Board of Education Hearing

Upon written request, the Board of Education shall provide a hearing within not later than ten (10) days after receipt of such request. If there is a hearing, the Board shall make a stenographic record or tape recording of the hearing; shall make a decision on student eligibility to attend local schools within not later than ten (10) days after the hearing; and shall notify the parent, guardian, emancipated minor, or student eighteen (18) years of age or older or unaccompanied youth of its findings. Hearings shall be conducted in accordance with the provisions of Sections 4-177 to 4-180 inclusive and Section 10-186 of the Connecticut General Statutes.

The Board shall, within ten (10) days after receipt of notice of an appeal, forward the hearing record to the State Board of Education.

Legal Reference: Connecticut General Statutes
 4-176e through 4-185 Uniform Administrative Procedure Act.
 10-186 Duties of local and regional Boards of education re school attendance.
 Hearings. Appeals to state Board. Establishment of hearing board.
 10-253 School privileges for students in certain placements and temporary shelters.
 10-76d Duties and powers of boards of education to provide special education programs and services.
 Public Act 19-179 An Act Concerning Homeless Students' Access to Education
 United States Code
 42 U.S.C. §11432 Grants for state and local activities for the education of homeless children and youths.

Policy adopted: June 12, 2001
 Policy revised: June 12, 2007

NEW MILFORD PUBLIC SCHOOLS
 New Milford, Connecticut

**RECOMMENDED FOR REVISION AND
APPROVAL AT INITIAL BOARD PRESENTATION**

Language in **RED** constitutes an addition

COMMENTARY: Public Act 19-179 incorporates various provisions of the federal McKinney-Vento Homeless Assistance Act, 42 USC 11434a, into state law. In general, the McKinney-Vento Act gives homeless children the legal right to stay in their “school of origin” in the event of an episode of homelessness. The definition of “homelessness” is very broad and includes students who are forced to live with relatives, friends, etc. Often districts are responsible for the cost of transporting a student to another district when a school in that district is deemed the school of origin.

The suggested changes below and to BOE Policy # 5118 are designed to mirror language in state and federal statute on homeless students.

5118.1(a)

Students

Homeless Students

The Board of Education shall make reasonable efforts to identify homeless children residing within the district, encourage their enrollment and eliminate any existing barriers to their education.

The Board of Education shall ensure that homeless students are not stigmatized, segregated or discriminated against on the basis of their status as homeless. Homeless students, as defined by law, residing within the New Milford Public School District or residing in shelters within the school district shall be entitled to free school privileges.

Homeless students within the district not placed in a shelter remain the district’s responsibility to provide continued educational services. Such services for the child may be:

1. Continued in the school that the student attended when permanently housed or the school of last enrollment [“school of origin”]; or
2. Provided in the school that is attended by other students living in the same attendance area where the homeless child lives.

To the extent feasible, a homeless child will be kept in the student’s school or origin, unless it is against the wishes of the parent/guardian.

Homeless children shall be provided with educational services that are comparable to those provided to other students enrolled in the district, including but not limited to: Title I, transportation services, compensatory educational programs, gifted and talented, special education, ESL, health services and food and nutrition programs. **Homeless children not in the physical custody of a parent or guardian shall be entitled to knowledge of and have access to all educational, medical or similar records in his or her cumulative record.**

The Assistant Superintendent of Schools shall coordinate such efforts and be designated as the District’s Homeless Liaison. The Assistant Superintendent shall refer identified homeless children under the age of eighteen who may reside within the school district – unless such children are emancipated minors – to the State of Connecticut Department of Children and Families [“DCF”].

Students

Homeless Students

The administration shall attempt to remove existing barriers to school attendance by homeless emancipated minors of school age as follows:

1. The selected school for the homeless child shall enroll the child, even in the absence of records normally required for enrollment. The last school enrolled shall be contacted immediately to obtain records
2. Other enrollment requirements that may constitute a barrier to education of the homeless child may be waived at the discretion of the Superintendent. If the school district is unable to determine the student's grade level due to missing or incomplete records, the district shall administer tests or utilize other reasonable means to determine the appropriate grade level for the child.
3. Fees and charges, which may present a barrier to the enrollment or transfer of a homeless child, may be waived at the Superintendent's discretion.
4. Transportation services must be comparable to those provided other students in the selected school. Transportation shall be provided to the student's school of origin in compliance with federal and state regulations.
5. Official school records policies and regulations shall be waived at the Superintendent's discretion in compliance with federal and state statutes.
6. The school district shall make a reasonable effort to locate immunization records from available information. The Assistant Superintendent shall assist the parent/guardian in obtaining the necessary immunizations and records.

Students residing in a temporary shelter are entitled to free school privileges from the district in which the shelter is located or from the school district where they would otherwise reside if not for the placement in the temporary shelter. The district in which the temporary shelter is located shall notify the district where the student would otherwise be attending. The district so notified may choose to either:

1. Continue to provide educational services, including transportation between the temporary shelter and the school in the home district; or
2. Pay tuition to the district in which the temporary shelter is located.

If a homeless child is denied school accommodations on the basis of residency he or she shall be entitled to a hearing in accordance with state law and Board policy.

If the school district where the child would otherwise be located cannot be identified, the school district in which the temporary shelter is located shall be financially responsible for the child's educational costs, except that if DCF places a student who requires special education and related services in a temporary shelter, the school district in which the child resided immediately prior to the DCF placement shall be responsible for the cost of such special education and related services.

Students

Homeless Students

If a student requiring special education has been placed in an out-of-district program by either a school board or by a state agency, the school district in which the child would otherwise reside shall continue to be responsible for the child's education until such time as a new residence is established, even though the child or the child's family resides in a temporary shelter.

The Superintendent of Schools or the Superintendent's designee, shall develop administrative regulations, including a procedure for mediation of disputes, to ensure compliance with this policy and applicable law.

(cf. 5143 – Student Health Assessments and Immunizations)

(cf. 5146 – Child Abuse and Neglect)

(cf. 5118 – Nonresident Students)

Legal Reference: Connecticut General Statutes

10-253(e) School privileges for children in certain placements, non resident children and children in temporary shelters.

17a-101 Protection of children from abuse. Reports required of certain professional persons. When child may be removed from surrounding without court order.

17a-102 Report of danger of abuse.

17a-103 Reports by others.

17a-106 Cooperation in relation to prevention, identification and treatment of child abuse and neglect.

46b-120 Definitions.

Public Act 19-179 An Act Concerning Homeless Students' Access to Education

United States Code

42 U.S.C. §11432 Grants for state and local activities for the education of homeless children and youths.

Policy adopted: June 10, 2003

Policy revised: June 12, 2007

NEW MILFORD PUBLIC SCHOOLS
New Milford, Connecticut

**RECOMMENDED FOR REVISION AND
APPROVAL AT INITIAL BOARD PRESENTATION**

Language in **RED** constitutes an addition

COMMENTARY: Public Act 19-60 expressly permits students six and over to possess and self-administer over-the-counter sunscreen with written authorization to the school nurse. This procedure is in contrast with the procedure for student self-administration of medications which requires written authorization of an authorized prescriber along with parental authorization and school nurse evaluation to determine the student's competency to self-administer. The suggested language on page 3 closely tracks the new law.

The new law permits Boards of Education to develop procedures for implementing the new sunscreen provision. To this end, I would suggest that the administration consult with nursing staff and the district medical advisor concerning any appropriate administrative regulations necessary to implement the new sunscreen law (i.e. guidance regarding storage, parental authorization forms, etc.)

5141.21(a)

Students

Administration of Medication

A licensed nurse, or in the absence of such nurse, qualified personnel for schools may administer medication to students in the school system. Administration of medications by qualified personnel for schools shall be under the general supervision of the school nurse and in accordance with a student's individual medication plan.

Students will be permitted to self-administer medications only when they follow the procedures established by this policy and obtain prior approval from the school nurse. This requirement applies even to students who are age 18 or older.

Nothing in this policy prohibits parents or guardians from administering medication to their own children on school grounds.

Definitions

For the purpose of this policy, the following definitions shall apply:

“Medication” means any medicinal preparation including over-the-counter, prescription and controlled drugs.

“Administration of Medication” means any one of the following activities:

- Handling, storing, preparing or pouring of medication;
- Conveying it to the student according to the medication order;
- Observing the student inhale, apply, swallow, or self-inject the medication;
- Documenting that the medication was administered;
- Counting remaining doses to verify proper administration and use.

Students

Administration of Medication

“Qualified personnel” (A) for schools means a qualified school employee who is (i) a full time employee, or is (ii) a coach, athletic trainer or school paraprofessional, or (B) for school readiness programs and before- and after-school programs, means the director or director's designee and any lead teachers and school administrators who have been trained in the administration of medication;

“Authorized Prescriber” means a physician, dentist, optometrist, advanced practice registered nurse or physician assistant and, for interscholastic and intramural athletic events only, a podiatrist.

“Self-Administration of Medication” means that the medication is controlled by the student at all times and self-managed by the student according to an individual medication plan.

Except for the emergency administration of epinephrine to students who do not have a written prior authorization or order, prior to any administration of medication to students, the school nurse must be in possession of the following documentation:

1. The written order of an authorized prescriber;
2. The written authorization of a parent, guardian or student who is 18 years of age or older; and
3. The written permission for the exchange of information between the prescriber and the school nurse necessary to ensure safe administration of the medication.

Self-Administration of Medications by Students

Students who have a verified chronic medical condition and are deemed capable to self-administer prescribed emergency medication [or maintenance medication for diabetes] will be permitted to self-administer such medication provided that:

1. The required documentation for self-administering medication at school includes the following additional items:
 - a. The written order must include the recommendation for self-administration by the authorized prescriber;
 - b. The written authorization of the parent/guardian or student who is 18 years of age or older for the self-administration of medication;
 - c. An assessment by the school nurse that the student is competent to self-administer in the school setting;

Students

Administration of Medication

- d. An appropriate plan for the self-administration of medication including provisions for general supervision developed by the school nurse.
2. In addition, the Principal and appropriate staff must be informed that the student is self-administering prescribed medication.
3. The medication is transported by the student and maintained under the student's control in accordance with school policy and the student's plan.
4. In the case of inhalers for asthma and cartridge injectors for medically diagnosed allergies, the school nurse's review of a student's competency to self-administer shall not be used to prevent a student from retaining and self-administering such medication. In such cases, students may retain possession of inhalers or cartridge injectors at all times while attending school or receiving transportation services and self-administer such medication with only the written authorization of an authorized prescriber and written authorization from a student's parent or guardian.

Students with a medically diagnosed life-threatening allergic condition may possess, self-administer or possess and self-administer medication, including, but not limited to, medication administered with a cartridge injector, to protect such student against serious harm or death. Such students may possess, self-administer or possess and self-administer medication pursuant to the written authorization of a parent or guardian and pursuant to the written order of a qualified medical professional. Such students may possess, self-administer or possess and self-administer medication while in school or while receiving school transportation services.

Self-Administration of Sunscreen by Students

Any student who is six years of age or older may possess and self-apply an over-the-counter sunscreen product while in school prior to engaging in any outdoor activity, provided a written authorization signed by the student's parent or guardian is submitted to the school nurse.

Administrative Regulations

The Superintendent of Schools, with the advice and approval of the school medical advisor and the school nurse supervisor shall develop administrative regulations to implement this policy.

The regulations shall address the following topics:

1. Administration of medications by qualified personnel for schools
2. Limitations of LPNs, paraprofessionals, coaches and athletic trainers

Students

Administration of Medication

3. School readiness and before- or after-school programs
4. Training and supervision of qualified school personnel
5. Self-administration of medications by students
6. Procedures in the event of a medication emergency
7. Handling, storage and disposal of medications
8. Documentation and record-keeping
9. Notification and documentation of errors in the administration of medication
10. Procedures for the administration of epinephrine by qualified school employees for the purpose of emergency first aid to students who experience allergic reactions and who do not have a prior written authorization for the administration of epinephrine

School Bus Drivers

For purposes of this policy a “school bus driver” means any person employed by the New Milford Board of Education or by a private carrier who holds a commercial driver’s license with a public passenger endorsement pursuant to subsection (a) of section 14-44 of the Connecticut General Statutes and who transports New Milford Public Schools’ students in a school bus.

Not later than June 30, 2019 all school bus drivers providing transportation services to New Milford Public Schools’ students shall receive training as set forth in Public Act 18-185 in (1) the identification of the signs and symptoms of anaphylaxis, (2) the administration of epinephrine by a cartridge injector, (3) the notification of emergency personnel, and (4) the reporting of an incident involving a student and a life-threatening allergic reaction.

In accordance with Connecticut General Statutes § 52-557b, school bus drivers on or in the immediate vicinity of a school bus during the provision of school transportation services, who render emergency care by administration of medication with a cartridge injector to a student in need thereof who has a medically diagnosed allergic condition that may require prompt treatment in order to protect the student against serious harm or death, shall not be liable to the student assisted for civil damages for any injuries which result from acts or omissions by the school bus driver in rendering the emergency care of administration of medication with a cartridge injector, which may constitute ordinary negligence.

Students

Administration of Medication

Biennial Review of Policy and Regulations

This policy and administrative regulations shall be reviewed and revised biennially with the advice and approval of the school medical advisor, school nurse supervisor or other qualified licensed physician.

Legal Reference: Connecticut General Statutes

- | | |
|---------|--|
| 10-212 | School nurses and nurse practitioners. Administration of medications by parents or guardians on school grounds. |
| 10-212a | Administration of medications in schools, at athletic events and to children in school readiness programs |
| 14-11 | License endorsement for operators of commercial motor vehicles used for passenger transportation, school buses, student transportation vehicles, taxicabs, motor vehicles in livery service and motor or service buses. Requirements. Hearing. Appeal. Report re persons whose license or endorsement has been withdrawn, suspended or revoked. Penalty. |
| 52-557b | “Good Samaritan law”. Immunity from liability for emergency medical assistance, first aid or medication by injection. School personnel not required to administer or render. Immunity from liability re automatic external defibrillators. |

Public Acts

- | | |
|--------|---|
| 18-185 | An Act Concerning the Recommendations of the Task Force on Life-Threatening Food Allergies in Schools |
| 19-60 | An Act Allowing Students to Apply Sunscreen Prior to Engaging in Outdoor Activities |

Students

Administration of Medication

Regulations of Connecticut State Agencies

10-212a-1 to 10-212a-10 Administration of Medications by School Personnel and Administration of Medication During Before – and After– School Programs and School Readiness Programs

Policy adopted: June 12, 2001
Policy revised: June 11, 2002
Policy revised: August 26, 2003
Policy revised: June 24, 2004
Policy revised: September 14, 2004
Policy revised: June 12, 2007
Policy revised: October 13, 2009
Policy revised: June 14, 2011
Policy revised: November 10, 2015
Policy revised: September 18, 2018
Policy revised: February 26, 2019

NEW MILFORD PUBLIC SCHOOLS
New Milford, Connecticut

**RECOMMENDED FOR REVISION AND
APPROVAL AT INITIAL BOARD PRESENTATION**

Language in **RED** constitutes an addition

COMMENTARY: Public Act 19-195 changes existing law to allow Boards of Education to set “firm” graduation dates prior to the start of the school year so long as the scheduled graduation date comes no earlier than the 180th day of school in the school calendar originally adopted by the Board. The change to the law became effective July 1, 2019. Prior to the change, a Board could only set a firm graduation date at the beginning of the school year after at least 185 school days, or could set a firm graduation date after 180 school days if the graduation date was set after April 1st.

6111(a)

Instruction

School Calendar

The Superintendent of Schools shall recommend school calendars meeting all statutory requirements to the Board of Education for its review.

The calendars recommended to the Board may include the operation of schools on state holidays providing a suitable nonsectarian educational program is held to observe the holiday, except for those holidays that occur in December and January. If a holiday in January or December occurs on a school day, there shall be no school on such day.

The school calendar shall show school days in each school month, the number of school days in each month, legal and local holidays, staff development days, early closing days, vacation periods, and other pertinent dates, including graduation for students in grade twelve.

The Board, in establishing a graduation date, may establish for any school year a firm graduation date which is no earlier than the ~~one hundred eighty-fifth~~ **one hundred and eightieth (180)** day in the adopted school calendar. ~~The graduation date may be modified, if necessary, after April first in any school year by the Board establishing a firm graduation date which, at the time of such establishment, provides for at least 180 days of school.~~

To benefit children, families, and school staff in their planning, multiple year school calendars are preferable to single year school calendars.

(cf. 6146 - Graduation Requirements)

Instruction

School Calendar

Legal Reference: Connecticut General Statutes
1-4 Days designated as legal holiday'
10-15 Towns to maintain schools
10-16 Length of school year
10-16L Establishment of graduation date.
10-29a Certain days to be proclaimed by governor. Distribution and number of proclamations
10-66d. Participation by boards of education and nonpublic schools
10-66q. Development and adoption of uniform regional school calendar.
~~Section 321 of Public Act 13-247, An Act Implementing Provisions of the State Budget for the Biennium Ending June 30, 2015 Concerning General Government.~~
Public Act 19-195 An Act Concerning the Establishment of a Firm Graduation Date

Policy adopted: June 10, 2003
Policy revised: June 8, 2010
Policy revised: November 13, 2012
Policy revised: October 14, 2014

NEW MILFORD PUBLIC SCHOOLS
New Milford, Connecticut

FOR DISCUSSION AND POSSIBLE ACTION

COMMENTARY RE FOLLOW UP TO DEC 4, 2018 MEETING (Summary of Legal response provided in blue): *The policy language closely tracks a statute in the criminal code – Conn. Gen. Stat. § 53a-217b – that concerns possession of a weapon on school grounds. The law specifies certain categories of people who can legally possess a firearm on school grounds. For instance, hunters traversing school property to get to a hunting area may carry unloaded firearms on school property. Also, motor vehicle inspectors are expressly allowed to carry firearms on school property.*

Notably, the law permits “peace officers” to carry on school grounds while engaged in the performance of their duties. State and local police, corrections officers, judicial marshals, etc. are considered “peace officers”. The key part of the law here is that a peace officer is only allowed to carry a firearm on school grounds if carrying on school grounds is in the performance of their duties. An off-duty police officer picking their son or daughter up from school who has their firearm on them would technically be breaking the law and the policy (if they carried in knowing violation of the law). The same would apply to a retired police officer, but it should be noted that a retired police officer or other official who is working as a security guard and has a license to carry a firearm would not be violating the law or the policy because carrying the weapon would presumably be pursuant to an agreement to serve as a security guard.

1700(a)

Community Relations

Possession of Firearms on School Property Prohibited

The New Milford Board of Education prohibits all persons who are in possession of a firearm from entering school property, except those persons specifically authorized to do so by state or federal law and in accordance with the provisions of this policy. This prohibition includes individuals who are otherwise in lawful possession of an unloaded firearm and traversing school property for the purpose of gaining access to lands open to hunting or other lawful purposes. The prohibition does not apply to police officers on duty, qualified school resource officers who are authorized by the Board to carry a weapon in furtherance of their duties or state motor vehicle inspectors while engaged in performance of their official duties.

Students are prohibited by the Board of Education from possessing firearms for any reason, whether otherwise lawful or not, in or on the real property comprising the public or private elementary or secondary school or at a school sponsored activity as defined in Subsection (h) of Section 10-233a.

(cf. 5114 - Suspension/Expulsion/Exclusion/Removal)

Legal Reference: Connecticut General Statutes

29-28 Permit for sale at retail of pistol or revolver. Permit to carry a pistol or revolver. Confidentiality of name and address of permit holder.

29-33 Sale, delivery or transfer of pistol and revolvers. Documentation requirements. Waiting period. Exempted transactions. Penalty.

Community Relations

Possession of Firearms on School Property Prohibited

Legal Reference: Connecticut General Statutes

53a-3 Definitions.

53a-217b Possession of a weapon on school grounds. Class D felony.

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

Policy adopted:
Policy revised:
Policy revised:

May 7, 2001
May 13, 2014
October 18, 2016

NEW MILFORD PUBLIC SCHOOLS
New Milford, Connecticut

Connecticut General Statutes Annotated
Title 53a. Penal Code (Refs & Annos)
Chapter 952. Penal Code: Offenses (Refs & Annos)
Part XXI. Miscellaneous Offenses

C.G.S.A. § 53a-217b

§ 53a-217b. Possession of a weapon on school grounds: Class D felony

Effective: October 1, 2016

Currentness

(a) A person is guilty of possession of a weapon on school grounds when, knowing that such person is not licensed or privileged to do so, such person possesses a firearm or deadly weapon, as defined in [section 53a-3](#), (1) in or on the real property comprising a public or private elementary or secondary school, or (2) at a school-sponsored activity as defined in subsection (h) of [section 10-233a](#).

(b) The provisions of subsection (a) of this section shall not apply to the otherwise lawful possession of a firearm (1) by a person for use in a program approved by school officials in or on such school property or at such school-sponsored activity, (2) by a person in accordance with an agreement entered into between school officials and such person or such person's employer, (3) by a peace officer, as defined in [subdivision \(9\) of section 53a-3](#), while engaged in the performance of such peace officer's official duties, (4) by a person while traversing such school property for the purpose of gaining access to public or private lands open to hunting or for other lawful purposes, provided such firearm is not loaded and the entry on such school property is permitted by the local or regional board of education, or (5) by a motor vehicle inspector, designated under [section 14-8](#) and certified pursuant to [section 7-294d](#), while engaged in the performance of such motor vehicle inspector's official duties.

(c) Possession of a weapon on school grounds is a class D felony.

Credits

(1992, June Sp.Sess., P.A. 92-1, § 1; 1993, P.A. 93-416, § 7, eff. Oct. 1, 1993; 1994, P.A. 94-221, § 1; 1998, P.A. 98-129, § 15; 2001, P.A. 01-84, § 8, eff. July 1, 2001; 2016, P.A. 16-55, § 10.)

C. G. S. A. § 53a-217b, CT ST § 53a-217b

The statutes and Constitution are current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2019.

FOR DISCUSSION AND POSSIBLE ACTION

COMMENTARY: The Americans with Disabilities Act (“ADA”), Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and the Individuals with Disabilities Education Act (“IDEA”) all permit disabled individuals (students, employees and community members) to bring “service animals” into the school setting in certain circumstances and subject to certain restrictions. A service animal is ordinarily a trained dog; however, the ADA regulations also permit “miniature horses” to act as service animals (that is not a misprint).

The ADA, Section 504 and the IDEA do not require that school districts allow students, staff or community members to bring “emotional support animals” to school. Emotional support animals provide emotional support and comfort to their owners, but do not assist their owners with daily tasks. There are various emotional support animal certifications available on-line and elsewhere, but they do not carry the same weight as service animal certifications. Any animal can be an emotional support animal, but generally only dogs act as service animals.

Whether or not emotional support animals should be permitted on school property is up to the Board. There is no legal requirement that such animals be allowed and no prohibition against it. However, in making the decision on this issue the Board should be mindful of possible liability concerns and the potential for opening a Pandora’s Box to all sorts of emotional support animal situations.

Section III below includes voluntary provisions concerning non-service animals. The Board should determine if these provisions are appropriate.

1800(a)

Community Relations

Animals on School Property

Due to health, safety, sanitation and classroom disruption concerns, the New Milford School District does not permit animals on school grounds except in accordance with this policy.

I. In General

Animals are permitted on school property when (1) permitted by law (e.g., service animals, law enforcement animals), or (2) when approved by the Superintendent of Schools or his or her designee. When making decisions regarding the admission of animals on school property, the Superintendent or designee shall consider the impact on educational programming and take into consideration the type of animal, the threat to students who may have allergies, and the safety of the students. Animals permitted on school property must be immunized against diseases common to the specific type of animal and proof of immunization must be provided upon request.

Community Relations

Animals on School Property

II. Service Animals

An individual with a disability is permitted to be accompanied by a service animal on school property as required by law, subject to the conditions of this policy.

A “service animal” means a dog (regardless of breed or size) or miniature horse that has been individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual’s disability. The provision of emotional support, comfort or companionship are not “work or tasks” for purposes of this policy.

A. Requirements That Must Be Satisfied Before A Service Animal Will Be Permitted On School Property

Request: A student, staff member or community member who needs to be accompanied by a service animal on school property in order to accommodate his or her disability should notify the Superintendent of Schools or his or her designee before the animal is brought onto school property. The Superintendent or his or her designee may then ask whether the animal is required because of a disability and what work or tasks the animal has been trained to perform unless the work or tasks the animal is trained to perform are readily apparent.

Once the Superintendent or designee has received such notification, he or she will notify appropriate District personnel and vendors (school principal, bus company, etc.) of the presence of the service animal. Such requests should be renewed each school year.

Health and Vaccination: The service animal must be in good health and must be vaccinated and immunized against diseases common to that type of animal. All service animals must be kept free from fleas, ticks and other pests. Each school year the owner or handler of the animal must submit to the Superintendent or his or her designee a current veterinary health certificate and documentation from a licensed veterinarian that verifies that the service animal’s vaccinations and immunizations are current.

Control: A service animal must be under the control of his or her handler at all times. The service animal must have a harness (for guide dogs), a backpack, a vest identifying the dog as a trained service dog, a leash (blaze orange in color) for hearing dogs, or other tether unless either the handler is unable because of a disability to use a harness, backpack, vest, leash, or other tether, or the use of a harness, backpack, vest, leash, or other tether would interfere with the service animal’s safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler’s control.

Community Relations

Animals on School Property

B. Miniature Horses

The District will make reasonable modifications to its policies, practices, and procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. In determining whether reasonable modifications to any policies, practices, and procedures should be made to allow a miniature horse into a specific facility, the District shall consider the following factors:

1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
2. Whether the handler has sufficient control of the miniature horse;
3. Whether the miniature horse is housebroken; and
4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

All additional requirements outlined in this policy, which apply to service animals, shall apply to miniature horses.

C. Supervision and Care of Service Animals

The owner or handler of a service animal is responsible for the supervision and care of the animal, including any feeding, exercising, and clean up. However, these issues may be addressed by the 504 PPT team where appropriate based on the individual needs of a student.

D. Damages to School Property

The owner or handler of a service animal shall be held solely responsible in the event that a service animal damages or destroys school property or causes injury to personnel, students, or others.

E. Removal of Service Animals from School Property

The Superintendent of Schools or his or her designee may require an individual with a disability to remove a service animal from school property under the following circumstances:

1. The animal is out of control and the animal's handler does not take effective action to control it;

Community Relations

Animals on School Property

2. The animal is not housebroken;
3. The presence of the animal poses a direct threat to the health or safety of others; or
4. The presence of an animal would require a fundamental alteration to the service, program, or activity of the school division.

If the service animal is removed, the individual with a disability shall be provided with the opportunity to participate in the service, program, or activity without the service animal.

F. Health and Safety Concerns

If the presence of the service animal poses a health or safety risk to another member of the school community, as documented by a medical practitioner, the District will weigh the needs of all the parties and put together a plan to provide reasonable accommodations. Such accommodations may include the transfer of one of the individuals, or the exclusion of the service animal if the animal's presence poses an unwarranted threat to the health, safety and well-being of anyone who will come in contact with the service animal. Generally, allergies that are not life threatening are not a valid reason for prohibiting the presence of a service animal.

III. Non-Service Animals

A. The Use of Animals for Instructional Purposes

A non-service animal may be brought onto school grounds for instructional purposes where the presence of the animal directly supports learning strategies or the achievement of the objectives of an approved educational program. Under no circumstances shall animals that pose actual or potential safety risks and health risks to students and employees be allowed in schools or classrooms.

The following protocols must be met before an animal or animals may be brought onto school grounds for instructional purposes:

1. The appropriate building principal must approve the use of the animal for instructional purposes;
2. Prior to allowing the animal on school grounds, steps are taken to ensure that students and employees are not allergic to the presence of the animal or animals, and that the animal(s) will present no physical danger to students or employees, and that the animal(s) are free from any disease or parasite;

Community Relations

Animals on School Property

3. Prior to introducing any animal into classrooms or using any animal as part of the educational program, teachers shall make all efforts to ensure that students receive instruction in the proper care and handling of animals;
4. When animals are allowed in schools and classrooms, they shall be housed in suitable, sanitary, self-contained enclosures appropriate to the size of the animal. Animals shall not be allowed to roam freely in the classroom or school;
5. The sponsor of any animal must ensure that the animal's enclosure(s) is kept in a sanitary condition and that waste is properly disposed of.

B. Animals Brought onto School Grounds by Vendors

Outside vendors, contractors, or providers ("vendors") offering to bring animals onto school property to enhance educational programs must provide the District with the following prior to bringing any animals onto school property:

1. A Certificate of Insurance evidencing the vendor's insurance coverage in connection with the animal(s), including commercial general liability ("CGL") insurance policy coverage in the amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate naming the New Milford Board of Education and the Town of New Milford, and their elected officials, employees, agents and volunteers as additional insureds.
2. An indemnification agreement in which the vendor agrees to indemnify, defend and hold harmless the New Milford Board of Education and the Town of New Milford, and their elected officials, employees, agents and volunteers from any claims, damages, suits, actions, liabilities and costs of any kind or nature, including attorneys' fees, arising from or caused by the provision of any services, the failure to provide any services or the use of any services or materials furnished (or made available) by the vendor, provided that such liability is not attributable to the Town's or District's School sole negligence.

C. Pet Dogs on School Grounds

The New Milford School District shall post signs advising the public that no dogs are allowed on school property. If a dog is allowed to walk or roam on school grounds, the proper authorities will be called.

Community Relations

Animals on School Property

D. Unique Circumstances or Requests

Circumstances or requests requiring special consideration shall be reviewed by the Superintendent of Schools in consultation with appropriate District personnel.

Legal Reference:

- 42 U.S.C. § 12132 Americans with Disabilities Act (ADA)
- 28 C.F.R. § 35.130(b)(7) General Prohibitions Against Discrimination
- 28 C.F.R. § 35.136 Service Animals
- 28 C.F.R. § 36.104 Definitions

Policy adopted: _____

NEW MILFORD PUBLIC SCHOOLS
New Milford, Connecticut

School Law ALERT

Developments in School Law



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Developments from the 2019 Session of the Connecticut General Assembly: New Laws Affecting the Schools (and Public Employers)

By Mark J. Sommaruga, Esq.

The 2019 Regular Session of the Connecticut General Assembly passed major labor and employment legislation that addressed, *inter alia*, remedies for sexual harassment and employment discrimination and increases in the minimum wage. In addition, our legislature passed significant bills affecting Connecticut schools, such as changes in 1) the school climate/bullying laws, 2) “special education” and related laws (with respect to “anti-retaliation provisions” and responsibility for Section 504 accommodations at magnet schools), and 3) the expulsions statutes. As you will see, several of these enactments will require revisions of policies.

This summary provides a concise description of the new laws (including a bill from the July “special session”), with relevant commentary regarding their impact. For more detailed information regarding these legislative changes, please contact one of our attorneys.

EDUCATION

SCHOOL CLIMATE

Public Act 19-166 (“An Act Concerning School Climates”), which was signed by the Governor on July 8, 2019, makes several changes to the school bullying and “safe climate” statutes. Effective upon its passage, the Act creates a 33-member “social and emotional learning and school climate advisory collaborative”, which will be responsible for, among other things, developing a biennial state-wide school climate survey, a model positive school climate policy, a “plain language” notice of rights and remedies available for parents and guardians (which interestingly makes reference to the right to file a complaint with the State Board of Education under Connecticut General Statutes §10-4b), and a student suicide risk assessment. The Act requires the State Department of Education to post on its website by **August 1, 2021** the model policy and school climate survey that the collaborative develops. In addition, boards of education will be required to post on their websites the “plain language” notice of rights and remedies

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available for parents and guardians by June 30, 2021. The Act (confusingly) requires boards of education, in consultation with the collaborative and the State Department of Education, to provide on the “department” website certain training materials to school administrators regarding bullying prevention and intervention.

Effective **July 1, 2021**, the Act changes the definition of bullying to “an act that is direct or indirect and severe, persistent or pervasive, which 1) causes physical or emotional harm to an individual, 2) places an individual in reasonable fear of physical or emotional harm, or 3) infringes on the rights or opportunities of an individual at school”. It is interesting that the term “student” has been replaced by “individual” and that the Act’s revised definitions of “school climate” and “positive school climate” now make reference to school employees; it is unclear whether this will lead to staff members being able to bring bullying claims. The Act further specifies that when contacting parents and guardians whose children have been involved in bullying, the schools must let the parents know “the results of the investigation” into the alleged bullying incident (i.e., merely whether the incident was substantiated). Schools will also be required to inform these same parents or guardians that they may refer to the “plain language” notice of rights and remedies on their websites.

***IMPACT:** School districts may (eventually) need to revise their school climate plans/bullying policies in the future in order to conform to the afore-referenced changes. School districts should also be on the lookout for the “plain language” notice of rights that will be drafted by the State, along with a model policy.*

GRADUATION DATES AND SCHOOL CALENDARS

Public Act 19-195 (“An Act Concerning The Establishment Of A Firm Graduation Date And The Date For The First Day Of School Sessions”), which was signed by the Governor and took effect on July 1, 2019, now allows boards of education to establish a firm graduation date for students in Grade Twelve for that school year which at the time of establishment provides for at least 180 days of school.

***IMPACT:** Besides the practical scheduling impact, school districts may need to revise any graduation or school calendar policies in order to conform to the afore-referenced revision. Previously, school boards had to wait until April 1st to set a “firm” graduation date.*

PHYSICAL EXERCISE AND “PLAY”

Public Act 19-173 (“An Act Concerning The Improvement Of Child Development Through Play”), which was signed by the Governor and took effect upon passage (July 8, 2019), supplements the current physical exercise requirement for elementary school students by providing that local or regional boards of education are also permitted (but not required) to include an additional amount of time, beyond the 20 minutes required for physical exercise, devoted to “undirected play” during the regular school day. The Act also creates a task force to study issues relating to and the feasibility of including time devoted to undirected play during the regular school day in public elementary

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schools, with the task force to then submit its findings and recommendation to the General Assembly by January 1, 2020.

IMPACT: *While greater revisions may be in the offing based upon the task force's report, school districts may need to revise any physical exercise policies if they wish to utilize the above mentioned "undirected play" option.*

SCHOOL COUNSELORS

Public Act 19-63 ("An Act Concerning A Comprehensive School Counselor Program"), which was signed by the Governor and took effect on July 1, 2019, requires the State Board of Education, in collaboration with the Connecticut School Counselor Association, to adopt guidelines for a comprehensive school counseling program by July 1, 2020. The guidelines would "ensure that all students have access to a comprehensive school counseling program that provides academic, social-emotional and post-secondary and career readiness programming by a certified school counselor with adequate training."

HOMELESS STUDENTS

Public Act 19-179 ("An Act Concerning Homeless Students' Access To Education"), which was signed by the Governor and took effect on July 1, 2019, codifies the protections that homeless students receive under the federal McKinney-Vento Act and state student residency statutes. The Act provides that with respect to a school district denying school accommodations due to a claim that the student is homeless, the party claiming ineligibility based on residency shall have the burden of proving that the party denied schooling is not a homeless child by a preponderance of the evidence. The Act expressly provides that whenever a homeless child's residency appeal is denied by a local or regional board of education, the child shall continue in attendance or be immediately enrolled in the school selected by the child in the school district. In those circumstances, the board of education shall 1) provide the homeless child (or his/her parent or guardian) with a) a written explanation of the reasons for the denial of accommodations that is in a manner and form understandable to the child or parent or guardian, and b) information regarding the right to appeal the decision of the denial, and 2) refer the child (or his/her parent or guardian) to the school district's McKinney-Vento/homeless student liaison.

IMPACT: *School districts may need to review and revise (if necessary) residency and McKinney-Vento/homeless student policies in order to conform to the afore-referenced revisions.*

CURRICULUM

The General Assembly has passed several curriculum related bills. **Public Act 19-12 ("An Act Concerning The Inclusion Of African-American Studies In The Public School Curriculum")**, which was signed by the Governor on June 21, 2019, adds African-American and black studies and Puerto Rican and Latino studies to the required

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programs of study for public schools and requires all boards of education to include these topics in their curriculum commencing with the 2021-22 school year.

Public Act 19-128 (“An Act Concerning The Inclusion Of Computer Science Instruction In The Public School Curriculum, Programs Of Teacher Preparation And In-Service Training Programs For Teachers”), which was signed by the Governor and took effect on July 1, 2019, specifically adds computer science to the mandated programs of studies/curriculum to be offered by the public schools. However, this Act also makes several revisions to teacher preparation and certification laws relating to computer science and subject shortage areas. The Act requires teacher preparation programs leading to professional certification to revise their computer science curriculum to ensure that they are grade level and subject area appropriate. The Act requires the Office of Higher Education (in collaboration and consultation with the State Department of Education) to develop an alternate route to certification program for computer science teachers. The Act requires the State Board of Education to 1) adopt regulations by July 1, 2020 with respect to computer science teaching certification standards so as to create a computer science endorsement; 2) approve and adopt by January 1, 2020 a computer science subject area assessment for teacher certification; 3) beginning July 1, 2020, allow computer science certificate applicants or currently certified teachers in other subject areas seeking to teach computer science to substitute a satisfactory score on the assessment for the subject area certification requirements; and 4) beginning July 1, 2020, allow applicants for teacher certification in any **subject shortage area** to substitute achievement of a “satisfactory” score (as opposed to the current “excellent” score requirement) on the subject area assessment for the State Board of Education’s usual subject area certification requirements. The Act requires that the “student success plans” created by local and regional school districts for their Grade 6 (and older) students consider career and academic choices in computer science, science, technology, engineering, and mathematics. The Act establishes the “computer science education account” in the General Fund.

Additionally, the Act allows the Department of Economic and Community Development (within available appropriations) to develop by July 1, 2020 a model internship program to help Connecticut businesses provide college internships in the fields of technology and advanced manufacturing; the Department shall make the model available on its website. The Act adds computer science to the list of training and job placement areas in the Connecticut Employment and Training Commission’s statewide plan for implementing, expanding, or improving upon career certificate, middle college, early college high school, and Connecticut Early College Opportunity programs. The Act allows the DECD to identify and coordinate state resources to meet the needs of industries with anticipated job growth areas.

MORE ON MANUFACTURING

Public Act 19-58 (“An Act Promoting Careers In Manufacturing To Public School Students And Establishing A Task Force To Study The Demand For Career And Technical Education Teachers”) which was signed by the Governor and took effect on July 1, 2019, provides that guidance counselors and school counselors may provide

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materials concerning manufacturing, military and law enforcement careers when discussing career options with students. The Act further requires local and regional boards of education to develop goals for career placement for students choosing not to pursue an advanced degree. The Act amends the requirement for school district mandated "success plans" for each student (beginning in Grade 6) by providing that such success plans must provide evidence of career exploration in each grade including, but not limited to, careers in manufacturing. The Act accordingly requires the State Department of Education to revise and issue to local and regional boards of education guidance regarding changes to such student success plans. Finally, the Act requires the Commissioner of Education (in consultation with the executive director of the Office of Higher Education and the chairperson of the Technical Education and Career System's board) to conduct a study relating to the demand for career and technical education teachers in the state's technical high schools, traditional public high schools and community college advanced manufacturing technology centers. The Commissioner shall then submit a report regarding this study to the General Assembly by February 1, 2020.

Public Act 19-103 ("An Act Establishing A Pilot Program For The Expansion Of Advanced Manufacturing Certificate Programs"), which was signed by the Governor and took effect on July 1, 2019, requires the Board of Regents for Higher Education (on or before January 1, 2020) to establish a pilot program for the expansion of the advanced manufacturing certificate programs to public high schools. The Board of Regents shall establish the criteria for selecting the schools, which shall include, among other things, a focus on economically distressed communities and areas where there is a need for a workforce trained in advanced manufacturing. The Board of Regents may not select more than one public high school per year in which to establish such a program. Any local or regional board of education, separately or jointly may apply to participate in the pilot program; each board of education selected to participate in the program shall then enter into a memorandum of understanding for the operation of the advanced manufacturing certificate program with the Board of Regents. Beginning in the fall of 2020, each advanced manufacturing certificate program shall enroll 1) public high school students in Grade Eleven or Twelve from the school districts that have entered into the memorandum of understanding to simultaneously earn high school credits from the public high school and college credits and an advanced manufacturing certificate from the regional community-technical college or independent institution of higher learning chosen by the Board of Regents to operate the program, and 2) adults for classes during the evening and weekend hours to earn such an advanced manufacturing certificate. The Board of Regents for Higher Education shall report annually to the General Assembly on the operation and effectiveness of the pilot program and any recommendations to expand the program.

SCHOOL "ACCOUNTABILITY"

Public Act 19-130 ("An Act Concerning The Opportunity Gap"), which was signed by the Governor and took effect on July 1, 2019, expands the use of priority school district grants so as to include scientifically based reading research and instruction, numeracy instruction, and support for chronically absent students and reducing the district chronic absenteeism rate. For a priority school district that does not see an improvement in its accountability index score, the

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Commissioner may then develop a plan for expenditure of such grants, including the use of grants the purposes set for the above. This Act requires the Connecticut Technical Education and Career System [“CTECS”] to identify and develop a list of careers in critical construction trades that are essential to the needs of the state. The CTECS is also required to develop a plan to create or expand existing programs to meet the identified needs.

MINORITY TEACHER RECRUITMENT AND EQUITY

Public Act 19-74 (“An Act Concerning Minority Teacher Recruitment And Retention”) which was signed and took effect on July 1, 2019, requires the Minority Teacher Recruitment Policy Oversight Council, in consultation with the Minority Teacher Recruitment Task Force, to develop and implement strategies (and utilize existing resources) to ensure that at least 250 new minority teachers and administrators, of which at least 30% are men, are hired and employed by local and regional boards of education each year in the state.

The Act revises the minority educator loan reimbursement grant program administered by the Office of Higher Education so as to increase the amount such person could receive under the program. The Act also extends access to the Connecticut Housing Finance Authority’s teacher mortgage assistance program to those 1) who graduated from a public high school in an educational reform district, and 2) who graduated from a historically black college or university or a Hispanic-serving institution. The Act also expands the exception to the provision allowing re-employment for one year (without the usual limitation on earnings) of retired teachers to such individuals.

The Act makes numerous changes to the teacher certification statutes. The Act requires the Commissioner of Education 1) to enter into agreements with other states concerning educator certification reciprocity, and 2) establish or join interstate agreements to facilitate the certification of qualified educators from other states. Similar to Public Act 19-128, the Act provides that the State Board of Education shall allow an applicant for certification (or a teacher) seeking to teach in a “subject shortage area” to substitute achievement of a satisfactory score (as opposed to the current “excellent” score requirement) on any appropriate State Board of Education approved subject area assessment for the subject area requirements for certification. The Act also provides that any person who held a valid teaching certificate issued by the State Board of Education and such certificate has expired shall not be required to successfully complete the subject matter assessment in the endorsement area for which such person is seeking renewal or advancement of such certificate if such person has either 1) successfully completed at least three years of teaching experience or service in a public school or a nonpublic school under a valid teaching certificate issued by the State Board of Education or issued by another state in the past ten years in such endorsement area, or 2) holds a master's degree or higher in the subject area for which such person is seeking renewal or advancement of such certificate.

This Act further amends the **teacher certification** requirements by authorizing the State Board of Education to issue an initial educator certification to an applicant who holds a bachelor’s **or advanced** degree from a higher education institution that is regionally accredited **or has received an equivalent accreditation** and completes an approved

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teacher preparation (or alternate route to certification) program. The Act allows an applicant to substitute either a satisfactory score on a subject area assessment or relevant advanced coursework in place of an appropriate subject area major, rather than having to have both in order to substitute for the typical subject area major requirement.

Public Act 19-100 (“An Act Concerning The Inclusion Of Instruction In Culturally Responsive Pedagogy And Practice In The Preservice Training, Professional Development And In-Service Training Provided To Teachers”), which was signed by the Governor and took effect on July 1, 2019, requires a person seeking an initial educator’s certificate to complete a course providing instruction in “culturally responsive pedagogy and practice”; in addition, any program of school and district leadership preparation leading to professional certification would have to include instruction in “culturally responsive pedagogy and practice”. The Act also mandates the inclusion of such instruction in professional development and in-service training provided to teachers.

***IMPACT:** School districts may need to revise their in-service/professional development opportunities policies in order to conform to the afore-referenced revision.*

GUN SAFETY AND TRAINING

Public Act 19-5 (“An Act Concerning The Safe Storage of Firearms In The Home And Firearms Safety Programs In Public Schools”), which was signed by the Governor, expands the firearm safe storage laws so as 1) to require persons to securely store a firearm whether the weapon is loaded or unloaded and the person in control of the premises knows or reasonably should know that a minor under the age of 18 (as opposed to the current age 16 requirement) is likely to gain access to it without his or her parent’s or guardian’s permission, and 2) clarify the definition of “firearm”. These storage requirements take effect on October 1, 2019. In addition, the Act revises the laws related to **firearm safety programs** that may be offered by local and regional school districts by expanding the age range for which schools may offer such programs to Kindergarten through Grade Twelve (instead of through Grade Eight). The Act further requires the State Board of Education to develop guides to aid school districts in developing these firearm safety programs; the Act allows the State Board to consult with the Connecticut Police Chiefs Association when developing the guides. The revisions with respect to school firearm safety programs took effect on July 1, 2019.

BACKGROUND CHECKS AND “MISCELLANEOUS”

Public Act 19-91 (“An Act Concerning Various Revisions And Additions To The Education Statutes”), which was signed by the Governor and took effect on July 1, 2019, revises the laws concerning employee fingerprinting and background checks so as to cover any school or school district authorized to receive national criminal history record information from the Federal Bureau of Investigation, and would explicitly include as such covered “eligible school operators” local and regional boards of education, the Technical Education and Career System, state or local charter

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schools, cooperative arrangements and inter-district magnet school operators (other than those operators who are a third-party not-for-profit corporation approved by the Commissioner of Education). This Act requires applicants seeking a position with these schools to identify specifically any criminal charges that are pending against them. This Act provides that even where a regional educational service center arranges for such fingerprinting, it is the State Police Bureau of Investigation that will directly provide the results of the background check to the school. The Act clarifies that nothing in the background check statutes should be construed as causing a school to disseminate the results of any national criminal history records check (as opposed to information regarding the applicant's eligibility for employment or prior involvement in abuse or neglect). In addition to "eligible school operators", this Act requires background checks for employees of a "nongovernmental school operator", which is defined as an operator of an interdistrict magnet school that is a third-party not for-profit corporation approved by the Commissioner of Education, a state or local charter school, an endowed or incorporated academy approved by the State Board of Education, a private special education facility approved by the State Board of Education, or the supervisory agent of a nonpublic school.

The Act contains various "non-background check" provisions. The Act requires the State Department of Education to conduct a study concerning the authorization of towns and cooperative arrangements to be considered a "local education agency" for purposes of regional cooperation and in order to maximize efficiencies and cost-savings without establishing a regional school district; ostensibly, this provision was enacted at the behest of Regional School District No. 4. This Act requires the State Department of Education to update the health education component of the Healthy and Balanced Living Curriculum Framework to include "sexual harassment and assault, adolescent relationship abuse and intimate partner violence, and human trafficking and commercial sexual exploitation". The Act extends the term limits for school governance council voting members from two terms to four terms. This Act requires each local and regional board of education to make its grade level curriculum available on its website by August of each year (beginning with the 2020-2021 school year). Finally, and very importantly, this Act amends the **expulsion statutes** by providing that an expulsion for on school grounds activity due to a violation of school policy may only take place if there **also** is a "serious disruption of the educational process".

***IMPACT:** School districts may need to change portions of their background check policies in light of the above background check requirements. In addition, school district will need to revise their student discipline and expulsion policies to conform to the above referenced revision.*

SPECIAL EDUCATION

Public Act 19-184 ("An Act Concerning Various Issues Relating To Special Education"), which was signed by the Governor and took effect on July 1, 2019, **prohibits** a board of education from **disciplining or otherwise punishing** any teacher, administrator or school paraprofessional who 1) discusses or makes recommendations concerning the provision of special education and related services for a child during a planning and placement team meeting, or 2)

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discusses or makes such recommendations to the parent or guardian (or the child) outside of a planning and placement team meeting.

The Act revises statutory provisions regarding the **language and communications plans for hearing impaired students**. The Act expressly provides that such plans shall not only be included in individualized education programs, but also in accommodations plans developed pursuant to Section 504 of the Rehabilitation Act. The Act mandates that such language and communications plans ensure procedures for alerting the child of an emergency situation and for ensuring that the specific needs of the child are met during the emergency. The Act also 1) requires school security and safety plans for each school to include provisions relating to emergency communication plans for students identified as deaf, hard of hearing or both blind or visually impaired and deaf, 2) revises the school safety infrastructure criteria for school building projects to include provisions relating to such emergency communication plans for such students, and 3) requires the State Department of Education to establish a working group on language assessments for students identified as deaf, hard of hearing or both blind or visually impaired and deaf, along with programs an interventions for such students.

The Act applies the same division of responsibility between **interdistrict magnet schools** and sending school districts for special education students to **Section 504 students**, with the sending districts responsible for the additional “reasonable” costs for educating a student, but the magnet school responsible for ensuring that the student receives the services mandated by the Section 504 plan (whether the services are provided by the magnet school or the sending school district).

Furthermore, the Act requires boards of education to electronically notify parents or guardians if their child has been identified as **gifted and talented** (along with contact information with respect to, among others, persons responsible at the school district and the State Department of Education for gifted and talented students). The Act requires the State Department of Education’s IEP Advisory Council to conduct a study by July 1, 2020 concerning the authorization of **private therapists** to provide special education and related services directly to students at school during the regular school day, with the Department to then issue a report with its recommendations to the General Assembly. The Act requires any private special education provider that has a contract with a local or regional board of education to inform the board about complaints of mistreatment of students against the provider. Finally, the Act establishes a **working group** to study issues relating to **the gap of services for children three to five years of age**, during the period in which such children are no longer eligible for services provided by the birth-to-three program, and not yet eligible to receive special education and related services until such children are enrolled in kindergarten. The working group would review and evaluate the eligibility criteria for special education that creates a gap and prevents children from experiencing a continuity of services, and to issue a report with its recommendations to the General Assembly by January 1, 2020.

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Public Act 19-49 (“An Act Concerning Transitional Services For Children With Autism Spectrum Disorder”), which was signed by the Governor and took effect on July 1, 2019, amends the state special education laws so as to explicitly provide that commencing not later than the date on which the first individual education program [“IEP”] takes effect for a child who is at least 14 years of age and diagnosed with autism spectrum disorder, such IEP shall include 1) “appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills”, and 2) “the transition services, including courses of study, needed to assist a child in reaching those goals”. The Act states that nothing in it shall be construed as requiring the Department of Rehabilitation Services to lower the age of transitional services for a child with disabilities from 16 to 14 years of age.

SMOKING AND “VAPING”

Public Act 19-13 (An Act Prohibiting The Sale Of Cigarettes, Tobacco Products, Electronic Nicotine Delivery Systems And Vapor Products To Persons Under Age Twenty-One”), which was signed by the Governor and takes effect on October 1, 2019, raises from 18 to 21 the legal age to purchase cigarettes, other tobacco products, and electronic nicotine delivery systems and vapor products. Furthermore, the Act bans smoking and the use of electronic nicotine delivery systems and vapor products **on the grounds of** schools (not just within school buildings) and child care centers.

***IMPACT:** School districts may need to revise their smoking and vaping policies and notices, along with other interrelated policies, such as discipline/student conduct policies. In addition, it is important to remember that employees cannot take a “smoking break” on school property.*

SCHOOL SECURITY

Public Act 19-52 (“An Act Concerning School Security”), which was signed by the Governor and took effect upon passage (June 26, 2019), requires the Department of Emergency Services and Public Protection to update school security and safety plan standards not later than January 20, 2020 and every three years thereafter, and to distribute these standards to all Connecticut public schools. The Act further requires the Department to 1) evaluate and seek methods for simplifying the documentation requirements a) for reporting by local and regional boards of education on school security and safety plans and drills, and b) with the assistance of the School Safety Infrastructure Council, for school security infrastructure grant applications, with the Department (and as appropriate, the Council) to issue a report to the General Assembly by January 1, 2020, and to then implement the new requirements by July 1, 2020. Finally, the Act requires the Department to develop criteria to identify qualified school security consultants, with the Department then maintaining a registry of such consultants, which shall be updated at least annually by the Department, be made available to the public upon request and be published on the Department’s web site.

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SCHOOL CONSTRUCTION (from the July Special Session)

Public Act 19-1 (July Special Session) (“An Act Concerning Authorization of State Grant Commitments for School Building Projects”), which was signed by the Governor on July 23, 2019, authorizes state grant commitments for various specified school building projects in our state. In addition, the Act makes various (and conforming) changes to several school construction related laws. The Act makes it optional (as opposed to mandatory, as is currently required) for the Secretary of the Office of Policy and Management to provide comments and recommendations to the General Assembly with respect to the list of proposed school building projects. The Act requires that any **school building committee** established by either a town or regional school district for the purpose of undertaking a building project where state grants are sought include at least one committee member with experience in the construction industry.

The Act revises the state grant reimbursement rate for “**diversity school**” construction projects from the current rate of 80% of the reasonable project costs to instead be based upon the school district’s standard reimbursement rate (which can vary from anywhere between 10% to 70% for new construction, based upon town wealth), plus an additional 10% on top of that. A “diversity school” project is for the purpose of creating a new school in order to address racial disparities within a school district. The Act expands the types of projects eligible for “**emergency construction grants (which do not require legislative approval)**” so as to permit such grants for school security projects, including but not limited to improvements to existing security infrastructure or installing new security infrastructure.

The Act makes several changes to the **school construction procurement processes** that specifically exist for **architectural services, construction management services** and other “**project consultant**” services. Unlike the other provisions of this Act, which took effect upon passage (July 23, 2019), these procurement related provisions take effect on July 1, 2020. With respect to architectural services, the Act makes a minor modification in the criteria used for determining which architect is the “most responsible and qualified proposer” so as to include the “organizational and team structure” of not only the entity submitting the proposal, but also any subcontractors used by it. The Act further specifies that the process that governs the procurement of architectural services (i.e., a public selection process that leads to a pool of up to four “most responsible and qualified proposers”) will now also apply to contracts and orders for “other consultant services”, which include but are not limited to consultant services rendered by an owner’s representatives, construction administrators, program managers, environmental professionals, planners, and financial specialists. The Act specifies that costs associated with an order or contract for such consultant services will NOT be eligible for state financial assistance unless the order or contract receives prior approval from the Department of Administrative Services (“DAS”). Finally, the Act creates a separate procurement process for construction management services, which used to be governed by the same process as architectural services. While most of the same requirements will apply, the Act will revise the criteria for selecting construction managers so as to include whether the proposer intends to self-perform any project element and the benefit to the “awarding authority” (i.e.,

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the school district) that will result from such self-performance. The Act allows an awarding authority, upon the written approval of the Commissioner of DAS, to permit a construction manager to self-perform a portion of the construction work if the awarding authority and the Commissioner determine that the construction manager can self-perform the work more cost effectively than by using a subcontractor. The Act provides that all work not performed by the construction manager must be performed by trade subcontractors selected by a process approved by the awarding authority and the Commissioner. The Act requires that the construction manager's contract include a "guaranteed maximum price" for the cost of construction, which must be determined within 90 days after the selection of the trade subcontractors. The Act states that construction shall **not** begin prior to the setting of the guaranteed maximum price, except for work relating to site preparation and demolition.

***IMPACT:** Obviously, if your school district had a grant commitment approved, then your district may proceed to celebrate. In addition, school districts should obviously pay attention to this bill if they are contemplating a school construction project. Finally, school districts may need to revise any applicable policies governing the procurement processes for school construction projects.*

SUN SCREEN AND STUDENTS

Public Act 19-60 ("An Act Allowing Students To Apply Sunscreen Prior To Engaging In Outdoor Activities"), which was signed by the Governor and took effect on July 1, 2019, allows any student who is six years of age or older to possess and self-apply an over-the counter sunscreen product while in school prior to engaging in any outdoor activity, provided a written authorization signed by the student's parent or guardian is submitted to the school nurse. The Act further provides that local and regional boards of education may adopt policies and procedures to carry out this new statutory provision. The Act then states (logically) that if and when a board adopts such policies and procedures, the self-application of over-the counter sunscreen products by students shall be in accordance with such policies and procedures.

***IMPACT:** In addition to exercising this option to develop a specific policy to address the application of sunscreen, school districts could instead simply modify their administration of medication policies so as to allow students to apply sunscreen.*

DOMESTIC VIOLENCE

Public Act 19-146 ("An Act Requiring The Provision Of Information Concerning Domestic Violence Services And Resources To Students, Parents And Guardians"), which was signed by the Governor and took effect on July 1, 2019, requires the State Department of Education to publish information that it receives from the Judicial Branch's Office of Victim Services concerning services and resources available to victims of domestic violence on its website and disseminate it to local and regional school districts. In turn, these **school districts are now required** to provide such

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information to 1) any students, parent or guardian who expresses safety concerns at home due to domestic violence and 2) any parent or guardian of a student who authorizes the transfer of such student's education records to another school.

EARLY CHILDHOOD

Public Act 19-34 ("An Act Concerning The Staff Qualifications Requirement For Early Childhood Educators"), which was signed by the Governor and took effect on July 1, 2019, again delays and revises the imposition of certain increased qualifications for early childhood educators. **Public Act 19-61 ("An Act Requiring The Office Of Early Childhood To Develop An Early Childhood Educator Compensation Schedule")** which was signed by the Governor and took effect on July 1, 2019, requires the Office of Early Childhood to 1) develop an early childhood educator compensation schedule for early childhood program providers and 2) submit this schedule with recommendations to the General Assembly by January 1, 2021. **Public Act 19-121 ("An Act Implementing The Recommendations Of The Office Of Early Childhood")** is an omnibus bill that would implement various recommendations of the Office of Early Childhood.

YES-MORE TASK FORCES AND STUDIES

The General Assembly approved bills that continue to display legislative affinity for task forces and further study of issues. For example, **Special Act 19-8 ("An Act Establishing A Task Force To Analyze The Implementation Of Laws Governing Dyslexia Instruction And Training")**, which was signed by the Governor and took effect upon passage (June 28, 2019), establishes a task force to analyze and make recommendations on issues relating to the implementation of the laws governing dyslexia instruction and training in the state. The task force shall submit a report on its findings and recommendations to the General Assembly by January 1, 2021. Furthermore, **Public Act 19-68 ("An Act Establishing The Connecticut Apprenticeship And Education Committee")**, which was signed by the Governor and took effect upon passage (June 26, 2019), modifies the Commissioner of Education's committee to coordinate education for public school students on manufacturing careers by: 1) renaming it the "Connecticut Apprenticeship and Education Committee;" 2) broadening the Committee's scope to include additional industries, including insurance, health care, financial technology, biotechnology, STEM, construction trades, hospitality industries, and other appropriate industries; 3) revising the Committee's membership; and 4) modifying the information included in the Committee's required annual report to the General Assembly and extending the first reporting date to July 1, 2020.

MISCELLANEOUS

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As its title would suggest, **Public Act 19-31 (“An Act Concerning The Legislative Commissioner’s Recommendations For Technical Revisions to the Education and Early Childhood Statutes”)**, which was signed by the Governor and took effect upon passage (June 26, 2019), makes technical changes to various education and early childhood related statutes (including the removal of obsolete references). **Public Act 19-139 (“An Act Concerning Education Issues”)**, which was signed by the Governor and generally took effect on July 1, 2019, repeals an expedited teacher tenure provision for teachers or administrators who were previously tenured in one district and subsequently transfer into a priority school district. The Act further establishes a working group to study issues related to implementing the pre-service teacher performance assessment known as “edTPA,” which was adopted by the State Board of Education, with the working group to submit a report with its recommendations to the General Assembly by January 1, 2020. Finally, the Act will continue to permit “non-Sheff” magnet schools that are not in compliance with the state’s minority student enrollment requirements to continue to be eligible for magnet school operating grants for the 2019-2020 and 2020-2021 fiscal years if such a school submits a compliance plan to the Commissioner of Education (and the Commissioner approves it).

Public Act 19-122 (“An Act Concerning An Exemption From The Licensing Requirements For Child Care Services”), which was signed by the Governor and took effect upon passage (July 12, 2019), amends the statute that exempts certain child care services from state licensing requirements if they are administered by, among others, public school systems and municipalities so as to also include services provided by “Leadership, Education, and Athletics in Partnership, Inc.”, which is a New Haven based nonprofit youth development organization. **Public Act 19-164 (“An Act Concerning Social Workers”)**, which was signed by the Governor and takes effect on October 1, 2019, prohibits any person from using the title “social worker” (or any associated initials) or advertising services as a social worker unless he or she 1) has a bachelor’s or master’s degree in social work from a program accredited by the Council on Social Work Education [“CSWE”], 2) a doctorate in social work, or 3) if educated outside of the U.S. or its territories, completed an education program CSWE deems equivalent. The Act exempts from the prohibition 1) state employees with the title social worker and 2) municipal employees with this title hired before July 1, 2019. In addition, any person who holds a professional educator certificate issued by the State Board of Education with a **school social worker** endorsement, can continue to use the title of school social worker to describe such person’s activities while working in a public or nonpublic school in our state.

LABOR & EMPLOYMENT

MINIMUM WAGE

Public Act 19-4 (“An Act Increasing The Minimum Fair Wage”), which was signed by the Governor and takes effect beginning on October 1, 2019, **increases the minimum wage** from the current \$10.10/hour to \$11.00/hour on October 1, 2019, \$12.00/hour on September 1, 2020, \$13.00/hour on August 1, 2021, \$14.00/hour on July 1, 2022, and \$15.00/hour on June 1, 2023, with the minimum wage thereafter being subject to annual indexing/adjustment for

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inflation (commencing on January 1, 2024).

The Act provides for a **lower minimum wage for those under the age of 18** (except emancipated minors) for the first 90 days of employment, namely, 85% of the minimum wage or \$10.10/hour, whichever is greater; thereafter, such minors would receive the “typical” minimum wage, except those in institutional training programs specifically exempted by our Department of Labor. The Act provides that commencing October 1, 2020, no employer may take any action to displace (in whole or in part) an employee, including reducing the employee's hours, wages or employment benefits, for purposes of hiring persons under the age of 18 years at a rate below the minimum wage. If the Commissioner of Labor determines that an employer has violated this provision, the Commissioner shall suspend the employer's right to pay the reduced rate for employees for a period of time as specified in regulations that are to be adopted.

The Act provides that after two consecutive quarters of **negative growth** in the state's gross domestic product, the Commissioner of Labor shall report his or her recommendations in writing to the Governor regarding **whether any scheduled increases in the minimum wage should be suspended**. The Governor may then submit his or her recommendations regarding the suspension of such increases to the General Assembly.

In addition, the Act revises the “**tip credit**” reduced minimum wage for certain hotel and restaurant employees. Effective July 1, 2019, the Commissioner of Labor will recognize, as part of the minimum wage, gratuities in an amount equal to the difference between the minimum fair wage and the employer's share per hour for persons 1) who are employed in the hotel and restaurant industry (including a hotel restaurant) and 2) who customarily and regularly receive gratuities. This “employer's share” is 1) \$6.38 per hour for such persons other than bartenders, and 2) \$8.23 per hour for bartenders. Furthermore, the Commissioner of Labor is required to conduct a study regarding workers in this state who receive gratuities. When the study is concluded, the Commissioner shall make recommendations regarding the optimal methods of obtaining the following information: 1) which groups of workers in this state receive compensation in the form of gratuities, 2) the demographics of such workers, 3) the amount of gratuities received by such workers, and 4) any difference in wage growth between workers who receive gratuities and workers who do not receive gratuities. The Commissioner shall then submit a report regarding this study to the General Assembly by January 17, 2020.

***IMPACT:** Employers will obviously have to be cognizant of ensuring that “lower wage” employees are paid consistent with the afore-referenced revisions.*

SEXUAL HARASSMENT AND DISCRIMINATION COMPLAINTS

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Public Act 19-16 (“An Act Combatting Sexual Assault and Sexual Harassment”), which was signed by the Governor and takes effect on October 1, 2019, greatly affects Connecticut employers not only with respect to actions they must take to prevent harassment in their workplaces, but also increases exposure to potential liability for employment discrimination claims in general. This Act amends the current laws that require employers with three or more employees to **post a notice** stating that sexual harassment is illegal (and the remedies available to victims) by also requiring these employers to send a copy of this information to employees by email within three months of their hire if 1) the employer has provided an email account to the employee or 2) the employee has provided the employer with an email address. The email’s subject line must be similar to “Sexual Harassment Policy.” If an employer has not provided email accounts to employees, it must post the information on its website (if it has one). An employer can comply with this requirement by providing employees by email, text message, or in writing with a link developed by the Commission on Human Rights and Opportunities [“CHRO”] and available on its website about the illegality of sexual harassment and the remedies available to victims.

The Act amends the anti-sexual harassment **training requirements**. Employers with three or more employees must provide two hour of such training to all of their employees (not just supervisory employees) within one year of October 1, 2019 (and six months after any employee is hired). There is an exception for those employers who provided such training to all of their employees after October 1, 2018. The training requirement for employers with less than three employees is limited to supervisory employees. The Act requires CHRO (by October 1, 2019) to develop and make available to employers a free online training and education video or other interactive method that fulfills the Act’s training requirements. The Act provides that employers who fail to provide such notices and training may be fined up to \$1,000 (and authorizes CHRO to enter an employer’s premises during normal business hours to assure compliance with these mandates). Previously, the maximum fine for a failure to post was only \$250.

This Act requires an employer to obtain an employee’s consent in writing to “immediate corrective actions” that an employer may take to remediate sexual harassment, such as employee relocation, reassignment, or a different employee work schedule. The Act extends the deadline for filing a discriminatory employment practices complaint with CHRO (for complaints alleging an act of discrimination occurring on or after October 1, 2019) from 180 days after the alleged act to 300 days. This Act also expressly grants parties to CHRO administrative hearings the right to inspect and copy documents from the other party. This Act grants CHRO the authority to award a broad range of damages (including damages for “emotional distress”) and attorneys’ fees in employment discrimination cases; the Act indicates that the amount of attorneys’ fees awarded shall not be contingent upon the amount of damages requested or awarded. It is not clear if this grant of authority to CHRO will apply to only complaints filed on or after October 1, 2019, or all complaints pending with CHRO. The Act also gives courts the authority to award punitive damages in state court employment discrimination complaints. The Act gives CHRO the authority to directly bring a civil action in the courts concerning alleged discriminatory practices, instead of a case proceeding to a typical CHRO administrative hearing, if CHRO determines that 1) this would be in the public interest and 2) the parties mutually agree, in writing, to the case proceeding in this way.

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***IMPACT:** In addition to the potential costs (and exposure to liability) imposed vis-à-vis the CHRO complaint process provisions, employers must be ready to comply with both the revised training and posting requirements.*

FAMILY AND MEDICAL LEAVE

Public Act 19-25 (“An Act Concerning Paid Family And Medical Leave”), which was signed by the Governor on June 25, 2019, provides paid family and medical leave benefits to all eligible employees (namely, all **private** sector employees except private schools, all non-union state employees, **public sector employees whose unions collectively bargain for them to join this program**, and sole proprietors or self-employed persons who have voluntarily enrolled in the program) who have earned \$2,325 from one or more employers during the employee’s highest earning quarter during the previous five quarters. Specifically, this Act creates a “Family and Medical Leave Insurance Program” that will offer 1) up to 12 workweeks of “family and medical leave compensation” to covered employees during any 12 month period, and 2) two additional weeks of compensation to such an employee for a serious health condition that occurs during a pregnancy that results in incapacitation. The Program will be funded by employee contributions to the “Family and Medical Leave Insurance Trust Fund”, to be collected from covered employees starting on January 1, 2021, and would begin to provide compensation to covered employees starting on January 1, 2022. The Trust Fund will be managed by the Paid Family and Medical Leave Insurance Authority, which will annually determine the employee contribution rate (which cannot exceed .5%). The benefit is supposed to be 1) 95% of the covered employee’s base weekly earnings up to 40 times the minimum wage, plus 2) 60% of that covered employee’s base weekly earnings that exceeds 40 times the minimum wage; the total weekly benefit cannot exceed 60 times the minimum wage. However, if employee contributions are insufficient to maintain the Program’s solvency, the Act authorizes the Authority to reduce benefits as may be necessary. Employers would be allowed to meet their obligations under this Act via a private plan; such a private plan must be approved by the Authority and must, among other things, provide the same rights and benefits offer under the Program.

The Act also makes other changes to the state’s Family and Medical Leave Act [“FMLA”]. Effective January 1, 2022, the Act 1) extends the applicability of the **state’s FMLA to all private employers with at least one employee** (as opposed to the current 75 employee threshold)[1], 2) changes the state FMLA’s minimum eligibility requirement for employees, from working at least 12 months for the current employer and at least 1000 hours during the previous 12 months, to having been employed three months prior to the request for leave (regardless of how many hour worked), 3) aligns the maximum amount of leave under the state FMLA with the federal FMLA requirement (i.e., 12 weeks of leave during any 12 month period), 4) broadens the definition of “parent” and adds siblings, grandparents, grandchildren and “any other individual related by blood or whose close association with the employee is the equivalent of a family member” to the list of family members for whom an employee can take FMLA “caregiver” leave, and 5) limits an employer’s ability to require an employee taking FMLA leave to use his or her employer-provided paid leave (so that the employee is able to retain at least two weeks of such paid leave). This Act further would create a “non-charge” against an employer’s unemployment compensation experience rating when an

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employer lays off an employee due to the return of another employee who had been out on FMLA leave.

IMPACT: *Unless bargained by unions for paid family and medical leave, public sector employers are generally NOT covered by this Act.*

LEAVE FOR “CIVIL AIR PATROL”

Public Act 19-95 (“An Act Concerning Employment Protection For Members Of The Civil Air Patrol.”), which was signed by the Governor and takes effect on October 1, 2019, prohibits employers from discriminating against, disciplining, or discharging an employee because the employee is 1) a “civil air patrol” member, or 2) absent from work responding to an emergency or training as a civil air patrol member. The “civil air patrol” is the civilian auxiliary of the U. S. Air Force. The Act requires employees who are civil air patrol members to provide “as much notice as possible” to their employers of any absences, along with requiring them to notify employers of their status as members of the civil air patrol. The Act provides that it should not be construed as prohibiting an employer from 1) treating the employee’s absence as unpaid time off or 2) complying with a collective bargaining agreement or employee benefit plan entered into before October 1, 2019. The Act gives employees the right to bring lawsuits for damages for violations of this Act. The Act provides that state employees who are civil air patrol members shall be permitted to leave work to respond to emergencies, natural disasters, and life threatening events without loss of pay, sick leave or overtime accumulation; such state employees may (with the authorization of the employee’s “appointing authority”) be permitted to attend trainings without loss of pay, sick leave or overtime accumulation. Finally, state employees who are injured on or after October 1, 2019 while serving in the civil air patrol may receive sick leave with pay.

IMPACT: *Employers may need to revise their military leave related policies.*

WORKERS’ COMPENSATION AND PUBLIC SAFETY EMPLOYEES

Public Act 19-17 (“An Act Concerning Workers’ Compensation Benefits For Certain Mental Or Emotional Impairments, Mental Health Care For Police Officers And Wellness Training For Police Officers, Parole Officers And Firefighters”), which was signed by the Governor and takes effect on July 1, 2019, expands workers’ compensation benefits to include post-traumatic stress disorder suffered by parole officers, police officers (whether state or municipal) and firefighters resulting directly from witnessing while in the line of duty a deceased minor, someone’s death, or a traumatic physical injury that results in the loss of a vital body part. However, such benefits are more limited than “normal” workers’ compensation claims. This concept has been bandied about by the legislature since the 2012 tragedy in Newtown. In addition, **Public Act 19-111 (“An Act Concerning Additional Compensation For Certain Retired Public Safety Employees”)**, which was signed by the Governor and takes effect on October 1, 2019, authorizes a municipality by a 2/3’s vote of its legislative body (or board of selectmen if the legislative body is

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a town meeting) to compensate any retired uniformed member of its paid fire department or retired regular member of its paid police department if he or she: 1) has a permanent and severe disability caused by a serious bodily injury that arose out of, and in the course of, his or her job and was suffered in the line of duty (and within the scope of his or her job); 2) retired from service as a result of such disability; and 3) is under the age of 65. Such compensation must equal the difference between 1) the amount the retired employee receives in workers' compensation and other benefits and 2) his or her regular pay at the time of retirement. Once it approves the compensation, the municipality must pay it annually until the employee reaches age 65. Participating municipalities must establish procedures for evaluating and determining a retired employee's compensation eligibility.

MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

Public Act 19-124 ("An Act Concerning The Municipal Employees' Retirement System And Authorizing Bonding For The City Of Bridgeport's Pension Plan A Fund"), which was signed by the Governor and took effect on July 1, 2019, increases the required employee contribution rate for participants in the Municipal Employee Retirement System ["MERS"] by 1% per year commencing on July 1, 2019 and continuing with subsequent increases on July 1, 2020, July 1, 2021, July 1, 2022, July 1, 2023, and July 1, 2024. As the title suggests, the Act also authorizes bonding for the City of Bridgeport's "Pension Plan A" fund.

MUNICIPAL ARBITRATIONS

Public Act 19-107 ("An Act Concerning The Review Of Municipal Arbitration Awards"), which was signed by the Governor and takes effect on October 1, 2019, clarifies the 25 day deadline for a municipal employer to reject an interest arbitration award under the Municipal Employee Relations Act; the Act provides that if the 25th day falls on a weekend or a holiday, the deadline will be extended through the next business day.

WHISTLEBLOWER PROTECTIONS

Public Act 19-69 ("An Act Extending Whistleblower Protections To Employees Of Businesses Receiving Financial Assistance From The State"), which was signed by the Governor and takes effect on October 1, 2019, extends "whistleblower" protections to employees of entities receiving economic development financial assistance from the state who provide information to the Auditors of Public Accounts concerning corruption by any such entity "that has failed to meet its contractual obligations or satisfy any condition of the financial assistance agreement".

YES, EVEN MORE TASK FORCES AND STUDIES

Special Act 19-6 ("An Act An Act Establishing A Workforce Pipeline And Job Creation Task Force"), which was signed by the Governor and took effect upon passage (June 13, 2019), establishes a workforce pipeline and job creation task force "to prepare the state's future workforce for well-paying manufacturing and technical jobs located

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in Connecticut". The task force shall submit a report on its findings and recommendations to the General Assembly by January 1, 2020. **Special Act 19-11 ("An Act Establishing A Task Force To Study Debarment And Limitations On The Awarding Of State Contracts")**, which was signed by the Governor and took effect upon passage (June 18, 2019), establishes a task force to study Connecticut's debarment procedures (relating to employers who engage in "wage theft") and how such procedures relate to other states and other Connecticut employment statutes. The task force shall submit a report on its findings and recommendations to the General Assembly by February 1, 2020. **Special Act 19-10 ("An Act Establishing A Task Force To Study Remedies And Potential Liability For Unreasonably Contested Or Delayed Workers' Compensation Claims")** which was signed by the Governor and took effect upon passage (June 21, 2019), establishes a task force to 1) identify the extent of unreasonably contested or delayed workers' compensation claims, 2) study methods to expand remedies regarding potential liability for unreasonably contested or delayed workers' compensation claims, and 3) clarify the law regarding bad faith handling of workers' compensation claims. The task force shall submit a report on its findings and recommendations to the General Assembly by January 1, 2020. Finally, **Public Act 19-142 ("An Act Establishing A Council On The Collateral Consequences Of A Criminal Record")**, which was signed by the Governor and took effect on July 1, 2019, establishes a 20-member Council on the Collateral Consequences of a Criminal Record, which will 1) study discrimination faced by people in the state with a criminal record and 2) develop legislative recommendations to reduce or eliminate discrimination based on a person's criminal history. The council must submit a report on its legislative recommendations to the General Assembly by February 1, 2020. *PLEASE NOTE: the original version of this Act would have broadly prohibited discrimination based on a person's criminal arrest or conviction history.*

AND FINALLY, "THE BUDGET IMPLEMENTER"

Whenever a budget is enacted, the General Assembly must pass a bill to "implement" the budget (i.e., the so-called "Implementer"). The 2019 Implementer, which is 580 pages long, and is officially entitled **Public Act 19-117 ("An Act Concerning The State Budget For The Biennium Ending June Thirtieth, 2021, And Making Appropriations Therefor, And Implementing Provisions Of The Budget")**, which was signed by the Governor on June 26, 2019, contains many provisions that will affect Connecticut's schools and public sector employers (besides just the budget). The following is a cursory description of significant related highlights contained in this year's Implementer, with these provision taking effect for the 2019-2020 fiscal year (i.e., July 1, 2019), unless otherwise noted.

CHOICE PROGRAMS AND EQUITY: The Act increases the per pupil funding for interdistrict magnet school programs by 2%. It also extends the Commissioner of Education's authority to award magnet school transportation grants.

UNEXPENDED SCHOOL BUDGET FUNDS: The Act increases the amount of unexpended education funds that a town could deposit into a non-lapsing account at the end of each fiscal year to 2% of the total budgeted appropriation for education (from the current 1%). This Act also requires that any expenditure of funds from this account be

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authorized by the local board of education of the town and be for educational purposes only.

MINIMUM BUDGET REQUIREMENT: The Act extends the minimum budget requirement [“MBR”] through the 2019-2020 and 2020-2021 fiscal years. The Act modifies the MBR by allowing towns to use a five-year look-back period for reductions in student enrollment for purposes of permitted reductions to the MBR. The Act also permits a school district that has 1) elected to act as a self-insurer, 2) experienced a loss incurred as a result of one or more catastrophic events during the prior fiscal year, and 3) increased its budgeted appropriation for education during said prior fiscal year as a result of such loss to NOT include the amount of such increase in the calculation of its budgeted appropriation for education for the subsequent fiscal year. The Act further requires the State Department of Education to 1) compile a MBR calculation worksheet for each school district, 2) provide the worksheet to the appropriate school district, and 3) make each worksheet available on its website. The Act also provides waivers for the Towns of Plymouth and Portland for meeting the MBR in 2018-2019 and reduces the penalty for towns that failed to meet the MBR in 2018-2019 (with such towns having a year to make up the shortfall, and if even if they do not, the penalty will merely be the amount of the shortfall, as opposed to twice the shortfall).

POSTING OF BUDGET INFORMATION: The Act requires each local and regional board of education to each quarter 1) post its current and projected expenses and revenue on its website, and 2) submit a copy of such expenses and revenue to the municipal legislative body or board of selectmen, as applicable.

REGIONALIZATION TASK FORCE: The Act establishes a 32-member task force to study ways to encourage greater and improved collaboration among the state and municipal governments and regional bodies. Any recommendations or initiatives resulting from the task force must be optional for municipalities. Among other things, the task force shall exam 1) the functions, activities, or services that municipalities currently perform individually but that the State’s Office of Policy and Management might perform more efficiently on behalf of those willing to opt in; 2) the functions, activities or services currently performed by the state or municipalities that may be provided in a more efficient, high-quality, cost-effective, or responsive manner by regional councils of governments, regional educational service centers, or other similar regional bodies; 3) cost savings of government services, including joint purchasing, for municipalities and their respective local or regional school districts; and 4) cost savings through the sharing of government services, including joint purchasing, among municipalities. This task force then shall issue a report on its findings and recommendations to the General Assembly by February 5, 2020.

GRANTS: The Act renews numerous education grants provided by statute (e.g., *Sheff* magnet schools, no nexus and excess cost special education grants, vo-ag grants), although it would maintain the ECS rate adjustment for certain towns agreed to during the previous legislative sessions. In addition, certain of these grants remain subject to “available appropriations”.

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SPECIAL EDUCATION “EXCESS COST GRANT” EXTENSION: This Act requires the State Department of Education to pay a special education excess cost grant to Regional School District No. 14 for excess costs incurred during the 2018-2019 school year, notwithstanding certain statutory grant application filing deadlines.

“DALIO FOUNDATION” AND FUNDING: The Act establishes “The Partnership for Connecticut, Inc.” as a nonprofit corporation. The Act requires that the corporation be funded in the 2019-2020 fiscal year, with 1) \$20 million from the philanthropic enterprise and (2) upon confirmation of this contribution, \$20 million from the state. The same funding levels will be maintained through the 2023-24 fiscal year. This corporation will be subject to Connecticut statutory provisions governing nonprofit corporations. In an apparent attempt to avoid having to comply with Connecticut’s Freedom of Information Act, the Act specifies that the corporation must not be construed 1) as a department, institution, public agency, public instrumentality, or political subdivision or 2) to perform any governmental function. The main purposes of this “philanthropic enterprise” are to 1) strengthen public education in Connecticut, 2) support financial inclusion and social entrepreneurship, 3) provide a philanthropic designee of the enterprise, 4) promote upward mobility in the state by connecting at-risk high school-aged youth and young adults to educational and career opportunities; 5) support economic development in under-resourced communities through microfinance and social entrepreneurship, 6) promote and expand on the collaboration between the state and one or more philanthropic or nonprofit entities designated by the enterprise to carry out the bill’s purposes; and 7) provide additional resources for the above purposes.

TECHNICAL EDUCATION: This Act delays by two years the “independence” of the Technical Education and Career System from the State Department of Education.

AFTER SCHOOL PROGRAMS: Among other things, the Act allows after school grant recipients to expend program funds to provide after school program transportation.

PRESCHOOL/EARLY CHILDHOOD: Among other things, the Act requires the Office of Early Childhood to conduct a study on enrollment and availability of slots in preschool programs.

YOUTH SERVICES BUREAUS: This Act transfers from the State Department of Education to the Department of Children and Families responsibility for administering the youth service bureau programs.

MINORITY EDUCATOR INCENTIVES: The Act establishes the minority educator loan reimbursement grant Program as part of the existing Connecticut minority teacher incentive program the Office of Higher Education administers. The Act also expands the existing Connecticut minority teacher incentive program to provide grants, within available appropriations, to minority students enrolled in alternate route to certification programs.

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RETIREMENT FUNDING: The Act 1) creates a Connecticut Teachers' Retirement Fund Special Capital Reserve Fund in order to provide further security to Fund bondholders, and 2) beginning in the 2019-2020 fiscal year, requires the State via the Comptroller to pay 50% of the portion of the State Employees' Retirement System fringe recovery rate attributable to the unfunded liability of the System.

"PARTNERSHIP 2.0"/STATE HEALTH INSURANCE PLAN FOR MUNICIPAL EMPLOYEES: Among other things, this Act allows the State Comptroller to offer other types of health care plans to "non-state" public employers in addition to (or instead of) the state employee health plan. However, the Act specifically prohibits the Comptroller from offering high deductible plans (e.g., health savings account compatible plans). The Act requires the Comptroller to adjust premiums paid by non-state public employers who enroll in the state employee health plan on or after July 1, 2019, to reflect 1) the cost of health care in the county in which the majority of such employer's employees work and 2) differences from the benefits and networks provided to state employees. However, the Comptroller must phase-in the premium adjustment during a two-year period beginning July 1, 2020 (with one half of the adjustment in the first year and the other half in the second).

HIGH DEDUCTIBLE HEALTH PLANS TASK FORCE: The Act establishes a task force to study high deductible health insurance plans and the impact of such plans upon Connecticut enrollees, with the task force to issue a report with its findings to the General Assembly by February 1, 2020.

"WORKING PAPERS": The Act exempts employers from the requirement to obtain a certificate showing the age of an employee under age 18 (i.e., "working papers") when they employ minors through a regional workforce development board's youth development program.

UNEMPLOYMENT COMPENSATION: The Act requires that when an unemployment compensation claimant is eligible to use a "special base period" for determining the benefit amount, the special base period quarters must be consecutive quarters. The Act limits the unemployment compensation benefit eligibility penalty imposed on fraudulent claimants (which disqualifies such claimants from being able to collect up to 39 weeks of benefits when otherwise eligible) to claims that were deemed payable before October 1, 2019; the statutory repayment penalties will still remain in effect as is. The Act authorizes the Commissioner of Labor to enter into an unemployment compensation "consortium" with other states.

YES-TAXES! While this alert is not meant to discuss the many changes to various taxes and fees, it is worth noting that the Act 1) delays for two years the scheduled increase in the **teacher pension** income tax exemption from 25% to 50%, and 2) authorizes the Department of Revenue Services to collect data and establish a commission with respect to the study of an **employer payroll tax system** (in lieu of our current income tax scheme), with this commission then issuing a report on its findings and recommendations to the General Assembly by January 15, 2020.

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MUNICIPAL AUDITS (AND MORE ON REGIONALIZATION)

Public Act 19-193 (“An Act Concerning Municipal And Regional Opportunities And Efficiencies”), which was signed by the Governor and took effect on July 1, 2019, requires the Office of Policy and Management [“OPM”] to refer **municipalities and regional school districts** (and any other entity subject to the Municipal Auditing Act) to the Municipal Finance Advisory Commission [“MFAC”] in situations where the OPM secretary finds 1) the audit was not prepared in accordance with the Municipal Auditing Act’s provisions and the audited entity did not request from OPM a waiver of these provisions, or 2) there is evidence of unsound or irregular financial practices or management letter comments or lack of internal controls in relation to commonly accepted municipal finance standards. The OPM secretary shall prepare a report concerning its finding, including but not limited to recommendations for corrective action. Upon receipt of this report, the CEO of a municipality or superintendent of a regional school district must submit to OPM an attestation of the OPM secretary’s findings and a plan for corrective action. This Act also now requires OPM to refer municipalities to MFAC if a municipality has 1) a negative fund balance percentage; 2) in the three preceding fiscal years, a) reported a fund balance percentage of less than 5% or b) issued tax or bond anticipation notes to meet cash liquidity; 3) in the two preceding fiscal years, a) reported a declining fund balance trend or b) a general fund annual operating budget deficit of 2% or more of its average general fund revenues; 4) in the preceding fiscal year, a general fund annual operating budget deficit of 1.5% or more of its average general fund revenues; or 5) received a bond rating below “A” from a bond rating agency.

This Act amends the membership of the Advisory Commission on Intergovernmental Relations, along with its reporting deadlines to the General Assembly; the Act also requires the report to explicitly address the potential impact on local governments of state mandates. This Act allows municipalities to enter into interlocal agreements regardless of conflicting provisions in state statute, or in any local charter or ordinance. The Act provides that any board of education from a “Tier III” municipality referred to the Municipal Accountability Review Board [“MARB”] on or after January 1, 2018, must submit collective bargaining agreements and amendments to MARB (for its approval or rejection) within 14 days after any such agreement is reached: MARB then has 30 days to so act upon the agreement. Finally, the Act gives regional councils of governments (“COGs”) the authority to borrow funds to purchase property for the purpose of providing administrative office space and program functions.

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[1] Public sector employers such as school districts, along with private schools, are not covered by the state FMLA, but may be subject to the federal FMLA.

Please feel free to contact any of our attorneys in this practice area for additional information.

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