

NEW MILFORD BOARD OF EDUCATION

New Milford Public Schools

50 East Street

New Milford, Connecticut 06776

POLICY SUB-COMMITTEE

MEETING NOTICE

DATE: September 4, 2018  
TIME: 6:45 P.M.  
PLACE: Lillis Administration Building - Rm. 2

RECEIVED  
TOWN CLERK  
2018 AUG 31 A 10 42  
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. 4111/4211 Recruitment and Selection
  - 2. 4118.25/4218.25 Reporting Child Abuse and Neglect
  - 3. 5141 Student Health Services
  - 4. 5141.21 Administration of Medication
  - 5. 5157 Use of Physical Force

4. Item of Information

- A. Pullman & Comley School Law Alert – August 1, 2018

5. Discussion

- A. Policy Series for Review

6. Public Comment

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- 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.

**7. Adjourn**

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

**Alternates: Brian McCauley**  
**Bill Dahl**

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

Language in **RED** constitutes an addition

*COMMENTARY: Public Act 18-34 amended existing language on written minority recruitment plans to provide that boards of education must develop written minority educator recruitment plans rather than minority staff recruitment plans.*

**4111**

**4211**

## **Personnel -- Certified/Non-Certified**

### **Recruitment and Selection**

The Board desires the Superintendent to develop and maintain a recruitment program designed to attract and hold the best possible personnel who are highly qualified as defined by federal law in the district's schools.

The schools shall engage in fair and sound personnel practices in the appointment of all district employees. The administration shall be responsible for establishing recruitment, selection and appointment procedures.

### **Minority Teacher Recruitment**

The Board acknowledges that the educational interests of the state include providing students with opportunities to interact with students and staff from different racial, ethnic, and economic backgrounds in order to reduce racial, ethnic and economic isolation. Included in the district's efforts in this regard is the active recruitment of minority teachers. The district will continue to recruit, hire, and retain minority **staff educators** as important steps in the district's overall commitment to attract and hire the most qualified people to provide the best possible educational experiences and learning opportunities for all students. The Superintendent of Schools shall develop, implement and periodically revise a written plan for minority **staff educator** recruitment.

### **Recruitment and Selection**

The Superintendent shall insure that the District is in compliance with the provisions of Title I, the No Child Left Behind Act. Manuals and handbooks shall comply with federal law as to the qualifications for instructional personnel. Notice of professional qualifications shall be provided to parents/guardians of students in Title I schools and staffing pattern reviews as required by law shall be conducted annually.

Legal Reference:        Connecticut General Statutes  
                                 10-4a Educational interests of the state identified  
                                 **10-220 Duties of boards of education**  
                                 20 U.S.C. Section 1119 No Child Left Behind Act  
                                 34 C.F.R. 200.55 Federal Regulations

Policy adopted:        December 9, 2003  
Policy revised:        June 14, 2011

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 18-67 allows for the option of electronic reporting of possible abuse/neglect cases to DCF in addition to oral reporting. The relevant portion of the Act, however, will not become effective until October 1, 2019. Accordingly, the Board can either wait until then to adopt the below revisions or enact the language shown below with appropriate footnotes to indicate when the new section becomes effective.*

**4118.25(a)**

**4218.25(a)**

## **Personnel - Certified/Non-Certified**

### **Reporting Child Abuse and Neglect**

The Board of Education recognizes the obligation and importance of reporting suspected child abuse and neglect. Many of the school district's employees are considered mandated reporters and have an independent duty under state law to report suspected abuse and neglect to the Department of Children and Families ("DCF") or other law enforcement agencies. Regardless of an employee's status as a mandated reporter, ALL employees of the school district are required to report suspected child abuse or neglect in accordance with this policy and applicable law.

#### **Definitions**

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

**"Child"** means any person under eighteen years of age or any person under twenty-one years of age who is in full-time attendance in a secondary school, a technical school, a college or a state-accredited job training program;

**"Abused"** refers to a child who (a) has had physical injury or injuries inflicted upon him/her other than by accidental means, or (b) has injuries which are at variance with the history given of them, or (c) is in a condition which is the result of maltreatment such as, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment;

**"Neglected"** refers to a child who (a) has been abandoned; (b) is being denied proper care and attention, physically, educationally, emotionally, or morally; or (c) is being permitted to live under conditions, circumstances, or associations injurious to the child's well-being;

**"Mandated reporters"** are "School Employees" and specifically include: teachers, substitute teachers, administrators, superintendents, guidance counselors, psychologists, social workers, nurses, physicians, paraprofessionals, coaches or any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in the district.

## **Personnel - Certified/Non-Certified**

### **Reporting Child Abuse and Neglect**

#### **Definitions (continued)**

"**Sexual assault**" means the criminal conduct described in Conn. Gen. Stat. §§53a-70 (sexual intercourse by force or threat of force, or with a person unable to consent due to age or mental incapacity); 53a-70a (aggravated sexual assault); 53a-71 (includes sexual intercourse between a school employee and a student enrolled in the school district); 53a-72a (compelled sexual contact); 53a-72b (sexual contact with threat of firearm) or 53a-73a (sexual contact between a school employee and student enrolled in the school district).

#### **When to Report Abuse or Neglect**

Reports must be made whenever an employee, in the ordinary course of his or her employment, has reasonable cause to suspect or believe that:

1. A child (as defined above) has been: abused or neglected; has had non-accidental physical injury, or injury which is at variance with the history given of such injury, inflicted upon such child; or has been placed in imminent risk of serious harm.
2. A student has been the victim of a sexual assault and the perpetrator is a school employee. "Student" means a person of any age who is being educated by a local or regional board of education or technical high school other than as part of an adult education program.
3. A full time student under the age of 21 has been abused or neglected by a member of the school staff.

#### **Reasonable Cause**

A reporter's suspicion or belief may be based on factors including, but not limited to, observations, allegations, facts or statements by a child, victim or third party. Such suspicion or belief does not require certainty or probable cause.

#### **Reporting Procedure for Mandated Reporters<sup>1</sup>**

##### **Oral Report to DCF within 12 hours**

Mandated reporters must make an oral report by telephone (24 Hour Careline, 1-800 842-2288) or in person to the Department of Children and Families, or an appropriate law enforcement agency, as soon as practicable but not later than twelve (12) hours after having acquired reasonable cause to

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<sup>1</sup> The following section of this policy shall be effective until September 30, 2019.

## **Personnel - Certified/Non-Certified**

### **Reporting Child Abuse and Neglect**

#### **Reporting Procedure for Mandated Reporters (continued)**

suspect or believe that a child or victim has been abused or neglected. The employee shall notify the Building Principal and Superintendent of Schools or designee immediately after the oral report has been made.

#### **Written Report to DCF within 48 hours**

Mandated reporters shall submit a written report to DCF within forty-eight (48) hours of making the oral report. The report shall be filed on form DCF-136 or other sufficient form provided by DCF. The reporter shall also provide a copy of the written report to the Building Principal and Superintendent of Schools, except when the Superintendent is the alleged perpetrator of the abuse or neglect. In making all written reports required under this policy, the reporter may use a form provided by DCF. Written reports of abuse or neglect by mandatory reporters shall include the following information, if known:

1. The names and addresses of the child or victim and his or her parents or other person responsible for the child's or victim's care;
2. The age of the child or victim;
3. The gender of the child or victim;
4. The nature and extent of the child's or victim's injury or injuries, maltreatment or neglect;
5. The approximate date and time the injury or injuries, maltreatment or neglect occurred;
6. Information concerning any previous injuries to, maltreatment of or neglect to the child or his or her siblings;
7. The circumstances in which the injuries, maltreatment or neglect came to be known to the reporter;
8. The name of the person or persons suspected to be responsible for causing such injury or injuries, maltreatment or neglect;
9. The reasons such persons are suspected of causing such injury or injuries, maltreatment or neglect;
10. Any information concerning any prior cases in which such person or persons have been suspected of causing an injury, maltreatment or neglect of a child;
11. Whatever action, if any, was taken to treat, provide shelter or otherwise assist the child.

## Personnel - Certified/Non-Certified

### Reporting Child Abuse and Neglect

#### Reporting Procedure for Mandated Reporters<sup>2</sup>

##### Oral Report to DCF within 12 hours

Mandated reporters must make an oral **or electronic** report ~~by telephone (24 Hour Careline, 1-800 842-2288) or in person~~ to the Department of Children and Families, or an appropriate law enforcement agency, as soon as practicable but not later than twelve (12) hours after having acquired reasonable cause to suspect or believe that a child or victim has been abused or neglected. **An oral report shall be made by telephone (24 Hour Careline, 1-800 842-2288) or in person. An electronic report shall be made in accordance with any electronic reporting procedures established by the Commissioner of the Department of Children and Families.** The employee shall notify the Building Principal and Superintendent of Schools or designee immediately after the oral **or electronic** report has been made. **A mandated reporter who makes an electronic report shall respond to further inquiries from the Department of Children and Families made within twenty-four hours of such report.**

##### Written **or Electronic** Report to DCF within 48 hours

Mandated reporters shall submit a written **or electronic** report to DCF within forty-eight (48) hours of making ~~the an~~ oral report. ~~The report shall be filed on form DCF-136 or other sufficient form provided by DCF.~~ The reporter shall also provide a copy of the written **or electronic** report to the Building Principal and Superintendent of Schools, except when the Superintendent is the alleged perpetrator of the abuse or neglect. **In making all written—All reports required under this policy, shall be made in a manner prescribed by the Department of Children and Families.**

~~the reporter may use a form provided by DCF.~~ **Written All** reports of abuse or neglect by mandatory reporters shall include the following information, if known:

1. The names and addresses of the child or victim and his or her parents or other person responsible for the child's or victim's care;
2. The age of the child or victim;
3. The gender of the child or victim;
4. The nature and extent of the child's or victim's injury or injuries, maltreatment or neglect;
5. The approximate date and time the injury or injuries, maltreatment or neglect occurred;

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<sup>2</sup> The following section of this policy shall be effective on and after October 1, 2019.

## **Personnel - Certified/Non-Certified**

### **Reporting Child Abuse and Neglect**

#### **Reporting Procedure for Mandated Reporters (continued)**

6. Information concerning any previous injuries to, maltreatment of or neglect to the child or his or her siblings;
7. The circumstances in which the injuries, maltreatment or neglect came to be known to the reporter;
8. The name of the person or persons suspected to be responsible for causing such injury or injuries, maltreatment or neglect;
9. The reasons such persons are suspected of causing such injury or injuries, maltreatment or neglect;
10. Any information concerning any prior cases in which such person or persons have been suspected of causing an injury, maltreatment or neglect of a child;
11. Whatever action, if any, was taken to treat, provide shelter or otherwise assist the child.

#### **Cooperation with Investigation**

A person reporting child abuse or neglect shall provide any person authorized to conduct an investigation of child abuse or neglect with all information related to the investigation that is in the possession or control of the person reporting the abuse or neglect, except as expressly prohibited by state or federal law.

Notwithstanding the provisions of Connecticut General Statutes §10-151c, upon request and for the purposes of an investigation of suspected child abuse or neglect by a teacher employed by the Board, the Board shall provide the Commissioner of DCF any records maintained or kept on file about said teacher. Such records shall include, but not be limited to, supervisory records, reports of competence, personal character and efficiency maintained in such teacher's personnel file with reference to evaluation of performance as a professional employee of the Board and records of personal misconduct. For the purpose of this requirement, "teacher" is defined as each certified professional employee below the rank of superintendent in a position requiring a certificate issued by the State Board of Education.



**4118.25(f)**  
**4218.25(f)**

## **Personnel - Certified/Non-Certified**

### **Reporting Child Abuse and Neglect**

#### **Reporting Procedure for Employees who are NOT Mandated Reporters**

Employees of the school district who are not mandated reporters are required to report suspected abuse or neglect and suspected sexual assault of a student by a school employee as soon as possible but not later than twelve (12) hours after the employee has reasonable cause to suspect that a child has been abused or neglected. Such reports shall be made in writing to the Superintendent of Schools and the building administrator who shall act in accordance with his or her obligations as a mandated reporter.

Nothing in the reporting procedure outlined by this policy prevents employees who are not mandated reporters from also reporting suspected abuse or neglect directly to DCF or a law enforcement agency.

#### **Procedures When a School Employee is the Alleged Abuser**

##### **Notification of Parent or Guardian**

Whenever there is a report that a student has been abused or neglected by a school employee, the Superintendent shall immediately notify the child's parent or other person responsible for the child's care that a report has been made.

##### **Investigation by the Board of Education**

The Board of Education shall permit and give priority to any investigation conducted by DCF or the appropriate law enforcement agency. The Board may conduct its own investigation of the alleged abuse or neglect or sexual assault by a school employee provided that such investigation does not impede an investigation by DCF. The Superintendent of Schools shall conduct his/her investigation upon receipt of notice from the Commissioner of DCF or the appropriate law enforcement agency that the Board's investigation will not interfere with the investigation of DCF or law enforcement.

Before interviewing a child in connection with the investigation of an allegation of abuse or neglect by a school employee, the Superintendent or designee shall endeavor to obtain, when possible, the consent of parents or guardians or other persons responsible for the care of the child, to interview the child. The investigation shall include an opportunity for the suspected perpetrator to be heard with regard to the alleged abuse or neglect. During the course of the investigation, the Superintendent of Schools may suspend the employee with pay or may place the employee on administrative leave with pay pending the outcome of the investigation.

## **Personnel - Certified/Non-Certified**

### **Reporting Child Abuse and Neglect**

Regardless of the outcome of any investigation by DCF or a law enforcement agency, the Superintendent of Schools may take disciplinary action against any school employee up to and including termination of employment based upon the school district's investigation.

### **Impact of DCF Findings on Mandatory Suspension of School Employees**

If the Commissioner of DCF determines that there is reasonable cause to believe that a child has been abused or neglected by a school employee, and has recommended that such employee be placed on the DCF child abuse and neglect registry, the Superintendent shall suspend such employee with pay and without termination of benefits, and, within seventy-two (72) hours after issuance of the suspension, shall notify the Board of Education and the Commissioner of Education or his representative of the reasons for and conditions of the suspension. The suspension of a school employee who is employed in a position requiring a certificate shall remain in effect until the Board of Education acts pursuant to §10-151 of the Connecticut General Statutes. The Superintendent shall also disclose those records provided by DCF concerning its investigation to the Commissioner of Education and the Board of Education or its attorney. If the contract of employment of such a certified school employee is terminated as the result of an investigation of abuse or neglect or the employee resigns, the Superintendent shall notify the Commissioner of Education or his representative within seventy-two (72) hours after such termination or resignation. The suspension of a non-certified school employee shall remain in effect until the Superintendent of Schools or designee determines the appropriate disciplinary response, up to and including termination of employment.

### **Prohibitions on Employment**

The Board shall NOT employ a person whose employment contract was previously terminated by a board 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.

## **Personnel - Certified/Non-Certified**

### **Reporting Child Abuse and Neglect**

#### **Training**

School employees who are mandated reporters and were hired on or after July 1, 2011 shall be required to complete a training program for the accurate and prompt identification and reporting of child abuse and neglect. School employees who are mandated reporters and were hired before July 1, 2011 are required to complete a refresher training program. All mandated reporters shall be required to complete the refresher training program at least once every three years.

Although only mandated reporters are legally required to complete abuse and neglect training and refresher training programs, the Superintendent of Schools, at his or her discretion, may require other school employees to complete such training.

The training and refresher training programs shall be developed and made available by the Commissioner of DCF in accordance with applicable law.

The principal for each school shall annually certify to the Superintendent of Schools that each school employee who is a mandated reporter working at the school is in compliance with the training requirements. The Superintendent of Schools shall certify that all school employees who are mandated reporters are in compliance with training requirements.

#### **Confidential Rapid Response Team**

The Board hereby establishes a confidential rapid response team to coordinate with the DCF to ensure prompt reporting of suspected abuse or neglect or the suspected sexual assault of a student by a school employee and provide immediate access to information and individuals relevant to the department's investigation. The team shall consist of the Superintendent of Schools or designee, a teacher, a local police officer and other members designated by the Superintendent.

#### **Child Sexual Abuse and Assault Awareness and Prevention**

The Superintendent of Schools is authorized to implement a sexual abuse and assault awareness and prevention program developed by the State Department of Education in accordance with state law. The program should include training for teachers regarding the prevention, identification of and response to child sexual abuse and assault, information on resources to promote awareness, age-appropriate educational materials for students in grades K-12, and use of the uniform child sexual abuse and assault response policy and reporting procedure.

## **Personnel - Certified/Non-Certified**

### **Reporting Child Abuse and Neglect**

#### **Records and Documentation**

All records pertaining to allegations, investigations or reports of child abuse or neglect by a school employee shall be maintained in a central location. Such records shall include any reports made to DCF. The Department of Education shall have access to such records.

The Board shall keep records establishing that school employees have completed training and refresher training programs as required by law.

The Board shall document the annual notification of this policy to school employees.

#### **Retaliation Prohibited**

Retaliation against a mandated reporter is prohibited. The Board will not discriminate, discharge or otherwise retaliate against an employee who acts in good faith to comply with this policy and the individual obligations of applicable state law.

#### **Violation of this Policy**

Employees who fail to report child abuse or neglect in a timely manner or otherwise violate the requirements of this policy and/or applicable law may face disciplinary action up to and including termination of employment.

#### **Delegation of Authority**

The Superintendent is authorized to delegate his or her responsibilities for receiving and making reports, notifying and receiving notification, and conducting investigations to a designee acting on his or her behalf.

#### **Notification of Policy**

This policy shall be distributed annually to all school employees.

Legal References: Connecticut General Statutes  
10-220 Duties of boards of education  
10-220a In-service training  
10-221s Investigations of child abuse and neglect. Disciplinary action  
10-151e Disclosure of teacher records for purposes of an investigation of child abuse or Neglect

## Personnel - Certified/Non-Certified

### Reporting Child Abuse and Neglect

Legal References: Connecticut General Statutes (continued)

- 17a-101 Protection of children from abuse. Mandated reporters. Educational and training programs Model mandated reporting policy
- 17a-101a Report of abuse, neglect or injury of child or imminent risk of serious harm to child. Penalty for failure to report. Notification of Chief State's Attorney
- 17a-101b Oral report by mandated reporter
- 17a-101c Written report by mandated reporter
- 17a-101d Contents of oral and written reports
- 17a-101i Abuse or neglect by school employee or public or private institution or facility providing care for children. Suspension. Termination or resignation. Notification of state's attorney re conviction. Written policy re mandated reporting. Training programs
- 17a-1010 School employee failure or delay in reporting child abuse or neglect
- 17a-101p Reports by persons not designated as mandated reporters. Notice to Commissioner of Education
- 17a-101q State-wide sexual abuse and assault awareness and prevention program
- 17a-103e Reports of child abuse and neglect by a school employee. Review of records and information
- 53a-65 Definitions
- 53a-70 Sexual assault in the first degree: Class B or A felony
- 53a-70a Aggravated sexual assault in the first degree: Class B or A felony
- 53a-71 Sexual assault in the second degree: Class C or B felony
- 53a-72a Sexual assault in the third degree. Class D or C felony
- 53a-72b Sexual assault in the third degree with a firearm: Class C or B felony
- 53a-73a Sexual assault in the fourth degree: Class A misdemeanor or class D felony
- ~~Public Act 15-205, "An Act Protecting School Children"~~
- Public Act 18-67 An Act Concerning Minor Revisions to the Statutes of the Department of Children and Families and Establishing a Pilot Program to Permit Electronic Reporting by Mandated Reporters

Policy adopted: March 13, 2012  
Policy revised: October 9, 2012  
Policy revised: October 14, 2014  
Policy revised: October 13, 2015

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 18-168 requires that boards of education request that their students submit to periodic oral health assessments. Such assessments are totally voluntary and the Board cannot deny enrollment/continued enrollment to a student because he or she has not received an oral health assessment. Nevertheless, the new law mandates that boards of education request that their students undergo such assessments and requires that various notices be provided to parents/guardians.*

*The asthma reporting requirement to the Department of Public Health is already required by Conn. Gen. Stat. § 10-206. Inclusion of the policy language below for both oral health assessments and asthma reporting is suggested but not mandatory.*

**5141(a)**

## **Students**

### **Student Health Services**

#### **School District Medical Advisor**

The Board of Education shall appoint a school district medical advisor and appropriate medical support service personnel including nurses.

School health efforts shall be directed toward detection and prevention of health problems and to emergency treatment.

The medical advisor shall:

1. Plan and administer the health program for each school;
2. Advise on the provision of school health services;
3. Provide consultation on the school health environment;
4. Perform other duties as determined by the Board.

#### **Health Records**

There shall be a health record for each student enrolled in the school district which will be maintained in the school nurse's room. No record of any medical examination made or filed in accordance with Sections 10-205, 10-206, 10-207 or 10-214 of the Connecticut General Statutes ["C.G.S."], or any psychological examination made under the supervision or at the request of a Board of Education, **or oral health assessment conducted pursuant to Public Act 18-168** shall be open to public inspection. Furthermore, all other health records maintained by the school district shall be treated in the same manner as the student's cumulative academic record.

## Students

### Student Health Services

#### Regular Health Assessments

Prior to enrollment in kindergarten, each child shall have a health assessment by one of the following medical personnel of the parents or guardians choosing to ascertain whether the student has any physical disability or other health problem tending to prevent him or her from receiving the full benefit of school work and to ascertain whether such school work should be modified in order to prevent injury to the student or to secure for the student a suitable program of education:

1. a legally qualified practitioner of medicine;
2. an advanced practice registered nurse, or registered nurse; licensed pursuant to chapter 378 of the C.G.S.
3. a physician assistant licensed pursuant to chapter 370, ~~or by the~~ of the C.G.S.
4. a school medical advisor, or
5. a legally qualified practitioner of medicine, an advanced practice nurse or a physician assistant stationed at any military base.

Students entering from out of state must meet State of Connecticut health requirements. All new students entering **the** school district must fill out a questionnaire with the school nurse to assess the risk to exposure to tuberculosis. Any student who has any risk factors will have Mantoux test prior to entry.

Such health assessment shall include:

1. Physical examination which shall include hematocrit or hemoglobin tests, height, weight, and blood pressure;
2. Updating of immunizations required under C.G.S. §10-204a;
3. Vision, hearing, postural, gross dental screening and a chronic disease assessment, which shall include, but not be limited to, asthma as defined by the Commissioner of Public Health pursuant to C.G.S. §19a-62a;
4. A determination at each mandated examination as determined by the Connecticut Department of Public Health of the risk of exposure to tuberculosis. All students from high-risk countries (as defined by the Connecticut Department of Public Health) who are entering the system for the first time must receive a Mantoux test. A history of bacilli Calmette-Guerin (BCG) is not a contraindication to testing nor should it be considered interpretation of the skin test results. Test should be read prior to entry. All students who

## Students

### Student Health Services

#### Regular Health Assessments (continued)

are identified as positive reactors to the Mantoux test for the first time shall consult a physician and bring verification to the school nurse stating that they have had a chest x-ray and are free of active tuberculosis;

5. Any other information including a health and developmental history as the physician **or other provider** believes to be necessary and appropriate.

The assessment form shall include (A) a check box for the provider conducting the assessment to indicate an asthma diagnosis; (B) screening questions relating to appropriate public health concerns to be answered by the parent or guardian; and (C) screening questions to be answered by the medical provider. Health assessments shall also be required at school entry and in grades 6 and 9 (~~effective school year 2009-10~~) by a legally qualified physician of each student's parents or guardians own choosing, or by the school medical advisor, or the advisor's designee, to ascertain whether a student has any physical disability or other health problem. Such health assessments shall include:

1. Physical examination which shall include hematocrit or hemoglobin tests, height, weight, and blood pressure;
2. Updating of immunizations required under C.G.S. §10-204a;
3. Vision, hearing, postural, gross dental screening, and a chronic disease assessment which shall include, but not be limited to, asthma as defined by the Commissioner of Public Health pursuant to C.G.S. §19a-62a;
4. Students in high risk groups for TB who have not had a positive test should receive a Mantoux tuberculin skin test;
5. Any other information including a health and developmental history as the physician believes to be necessary and appropriate.

A child will not be allowed, as the case may be, to begin or continue in district schools unless health assessments are performed as required. Students transferring into the district must provide evidence of required Connecticut vaccinations, immunizations, and health assessments at enrollment and prior to school attendance. Students who are homeless will be permitted to attend school even if they are unable to provide proof of required immunizations. Such students shall be referred to the district's homeless liaison who will assist the parent or guardian with obtaining the necessary immunizations and/or records.



## **Students**

### **Student Health Services**

#### **Regular Health Assessments (continued)**

Health assessments will be provided by the school medical advisor or the advisor's designee without charge to all students whose parents or guardians meet the eligibility requirement of free and reduced priced meals under the National School Lunch Program or for free milk under the special milk program. The Board may utilize existing community resources and services in the provision of such assessments.

Health assessment results and recommendations signed by the examining physician or authorized medical personnel shall be recorded on forms provided by the Connecticut State Board of Education and kept on file in the school the student attends. If a student permanently leaves the jurisdiction of the board of education, the student's original cumulative health records shall be sent to the chief administrative officer of the school district to which such student moves and a true copy of the student's cumulative health records maintained with the student's academic records. Each physician, advanced practice registered nurse, physician assistant or registered nurse performing health assessments and screenings shall completely fill out and sign each form and any recommendations concerning the student shall be in writing. When in the judgment of appropriate school health personnel, the results and recommendations of such assessment reflect that a student is in need of further testing or treatment, the Superintendent of Schools, or designee, shall notify parents of any health-related problems detected in health assessments and shall make reasonable efforts to assure that further testing and treatment is provided, including advice on obtaining such required testing or treatment.

Students who are in violation of Board requirements for health assessments and immunizations will be excluded from school after appropriate parental notice and warning.

#### **Vision Screening**

All students in grades K-6, and grade 9 will be screened annually using a Snellen chart, or equivalent screening, by the school nurse or school health aide. Additional vision screening will also be conducted in response to appropriate requests from parents/guardians or professionals working with the student in question. Results will be recorded in the student's health record on forms supplied by the Connecticut State Board of Education, and the Superintendent or designee shall cause a written notice to be given to the parent or guardian of each student found to have any defect of vision or disease of the eyes, with a brief statement describing such defect or disease.

As necessary, modifications and/or accommodations shall be made for students with physical disabilities.

## **Students**

### **Student Health Services**

#### **Vision Screening (continued)**

All students will be screened for possible hearing impairments in grades K-3, grade 5, and grade 8. Additional audiometric screening will be conducted in response to appropriate requests from parents/guardians or professionals working with the student. Results will be recorded in the student's health record on forms supplied by the Connecticut State Board of Education, and the Superintendent or designee shall cause a written notice to be given to the parent or guardian of each student found to have any defect of vision or disease of the eyes, with a brief statement describing such defect or disease.

As necessary, modifications and/or accommodations shall be made for students with physical disabilities.

#### **Postural Screening**

School nurses will screen all students in grades 5 through 9 inclusive for scoliosis or other postural problems. Additional postural screening will also be conducted in response to appropriate requests from parents/guardians or professionals working with the student. Results will be recorded in the student's health record on forms supplied by the Connecticut State Board of Education, and the Superintendent or designee shall cause a written notice to be given to the parent or guardian of each student found to have any postural defect or problem, with a brief statement describing such defect or disease.

As necessary, modifications and/or accommodations shall be made for students with physical disabilities.

#### **Immunizations/Vaccinations**

Except as required by law, no student will be allowed to enroll in any program operated as part of the district schools without adequate immunization against the following diseases:

1. Measles
2. Rubella
3. Poliomyelitis
4. Diphtheria
5. Tetanus
6. Pertussis
7. Mumps
8. Hemophilus influenza type
9. Hepatitis B
10. Varicella (chickenpox)
11. Pneumococcal (Pre-K and K students less than 5 years old)

## Students

### Student Health Services

#### Immunizations/Vaccinations (continued)

12. Hepatitis A (students who entered Pre-K or K on or after August 1, 2011)
13. Meningococcal (Grades 7-9)
14. Influenza (Pre-K students less than 5 years old)
15. Any other vaccine required by law

Such list and the required number of doses may be amended as required by State of Connecticut guidelines and schedules.

Students shall be exempt from the appropriate provisions of this policy when:

1. they present a certificate from a physician or local health agency stating that initial immunizations have been given and additional immunizations are in process under guidelines and schedules specified by the Commissioner of Health Services; or
2. they present a certificate from a physician stating that in the opinion of such physician, immunization is medically contraindicated because of the physical condition of such child; or
3. they present a statement from their parents or guardians that such immunization would be contrary to the religious beliefs of such child; or
4. in the case of measles, mumps or rubella, present a certificate from a physician or from the Director of Health in such child's present or previous town of residence, stating that the child has had a confirmed case of such disease; or
5. in the case of hemophilus influenza type B has passed his or her fifth birthday; or
6. in the case of pertussis, has passed his or her sixth birthday.

The school nurse will report to the local Director of Health any occurrence of State of Connecticut defined reportable communicable diseases.

Any student participating in an interscholastic sports program must have a health assessment, within thirteen months prior to the first training session for the sport or sports. After the initial examination, repeat examinations are required every year. Each participant in a sport program must complete a health questionnaire before participating in each sport.

## Students

### Student Health Services

#### Immunizations/Vaccinations (continued)

Parents are expected to use the services of their private physician. If a student is unable to obtain a health assessment from his/her personal physician for financial or other reasons, an examination can be arranged with the school medical advisor. Health assessment results shall be recorded on forms provided by the Connecticut State Board of Education, signed by the examining physician, school medical advisor or advisor's designee, filed in the student's health folder, and maintained up to date by the school nurse.

Coaches and physical education staff shall insure appropriate monitoring of an athlete's physical condition.

#### Oral Health Assessments

The Board shall request that each student enrolled in the New Milford Public Schools submit to an oral health assessment prior to school enrollment, in either grade six or grade seven, and in either grade nine or grade ten. The oral health assessment shall include a dental examination by a dentist or a visual screening and risk assessment for oral health conditions by a dental hygienist, legally qualified practitioner of medicine, physician assistant or advanced registered nurse. The assessment form shall include a check box for the provider conducting the assessment, as described in subsection (a) of C.G.S. § 10-206, to indicate any low, moderate or high risk factors associated with any dental or orthodontic appliance, saliva, gingival condition, visible plaque, tooth demineralization, carious lesions, restorations, pain, swelling or trauma.

Such oral health assessment shall be conducted by:

1. A dentist licensed pursuant to chapter 379 of the C.G.S.;
2. A dental hygienist licensed pursuant to chapter 379a of the C.G.S.;
3. A legally qualified practitioner trained in conducting an oral health assessment as part of a training program approved by the Commissioner of Public Health;
4. A physician assistant licensed pursuant to chapter 370 of the C.G.S. and trained in conducting an oral assessment as part of such a training program; or
5. An advanced practice registered nurse licensed pursuant to chapter 378 of the C.G.S. and trained in conducting an oral assessment as part of such a training program.

No oral health assessment shall be made of any student enrolled in the New Milford Public Schools unless the parent or guardian of such student consents to such an assessment and such assessment is made in the presence of the student's parent or guardian or in the presence of another school employee. The parent or guardian of such student shall receive prior written

## Students

### Student Health Services

#### Oral Health Assessments (continued)

notice and shall have a reasonable opportunity to opt his or her child out of such assessment, be present at such assessment or provide for such assessment himself or herself. The Board shall not deny enrollment or continued attendance to any student who does not submit to an oral health assessment.

If the Board hosts a free oral health assessment event at which an authorized provider performs an oral health assessment of students attending a New Milford Public School, the Board shall notify the parents and guardians of the students attending such school in advance of the event. Each parent and guardian shall have the opportunity to opt his or her child out of the oral health assessment event. Each child whose parent did not opt him or her out of the oral health assessment event shall receive an oral health assessment, as prescribed above, free of charge. No child shall receive dental treatment of any kind as part of the oral health assessment event unless the child's parent or guardian provides informed consent for such treatment.

The results of an oral health assessment performed pursuant to this policy shall be recorded on a form supplied by the State Board of Education. Such information shall be included in the cumulative health record of each pupil who submitted to an oral health assessment and kept on file in the school such pupil attends. Each dentist, dental hygienist, legally qualified practitioner of medicine, physician assistant or advanced practice registered nurse who performs an oral health assessment pursuant to this policy shall completely fill out and sign the form and any recommendations of the dentist, dental hygienist, legally qualified practitioner of medicine, physician assistant or advanced practice registered nurse concerning the pupil shall be in writing.

Appropriate school health personnel shall review the results of each oral health assessment recorded pursuant to this policy. When, in the judgment of such school health personnel, a pupil is in need of further testing or treatment, the Superintendent shall give written notice to the parent or guardian of such pupil and shall make reasonable efforts to ensure that further testing or treatment is provided. Such reasonable efforts shall include a determination of whether or not the parent or guardian has obtained the necessary testing or treatment for the pupil and, if not, advising the parent or guardian as to how such testing or treatment may be obtained. The results of such further testing or treatment shall be recorded as set forth in the above paragraph and shall be reviewed by school health personnel.

## **Students**

### **Student Health Services**

#### **Student Medical Care at School**

School personnel are responsible for the immediate care necessary for a student whose sickness or injury occurs on the school premises during school hours or in school-sponsored and supervised activities. Depending upon specific circumstances, Category V issues may also be considered emergencies by attending school personnel.

Schools shall maintain files of emergency information cards for each student. If a child's injury requires immediate care, the parent or guardian will be called by telephone by the nurse, the building Principal, or other personnel designated by the principal, and advised of the student's condition. When immediate medical or dental attention is indicated, and when parents or guardians cannot be reached, 911 will be called and the student will be transported to the nearest hospital. In this event, the family physician/dentist and school district medical advisor will be notified of school district actions.

#### **Asthma Reporting**

The Board shall report to the local health department and the Department of Public Health, on a triennial basis, the total number of pupils per school and per school district having a diagnosis of asthma (1) at the time of enrollment, (2) in grade six or seven, and (3) in grade ten or eleven. The report shall contain information relating to asthma diagnoses gathered through health assessment screenings and shall also include information relating to pupil age, race, ethnicity and age.

- (cf. 5142 - Student Safety)
- (cf. 5141.4 - Child Abuse and Neglect)
- (cf. 5141.5 - Suicide Prevention)
- (cf. 6142.1 - Family Life and Sex Education)
- (cf. 6145.2 - Interscholastic/Intramural Athletics)
- (cf. 6171 - Special Education)

Legal References: Connecticut General Statutes

10-203 Compliance with public health statutes and regulations.

10-204a-1 et seq, Regulations of Connecticut State Agencies: School-Related Immunizations Immunization Of School Children Against Measles, Mumps, Rubella, Poliomyelitis, Diptheria, Tetanus, Pertussis, Hemophilus Influenzae Type B (Hib), Hepatitis B, And Varicella.

## Students

### Student Health Services

- Legal References: Connecticut General Statutes (continued)
- 10-204(a) Required immunizations.
  - ~~10-204(e)~~ 10-204c Immunity from liability
  - 10-205 Appointment of school medical advisors.
  - 10-206 Health assessments
  - 10-206(a) Free health assessments.
  - 10-206(c) Health assessments for adolescents
  - 10-207 Duties of medical advisers.
  - 10-208 Exemption from examination or treatment.
  - 10-208(a) Physical activity of student restricted; boards to honor notice.
  - 10-209 Records not to be public.
  - 10-210 Notice of disease to be given parent or guardian.
  - 10-212 School nurses and nurse practitioners.
  - 10-212(a) Administration of medicines by school personnel.
  - 10-213 Dental hygienists.
  - 10-214 Vision, audiometric and postural screening: When required; notification of parents re defects; record of results.
  - 10-214(a) Eye protective devices.
  - 10-214(b) Compliance report by local or regional Board of Education
  - 10-217(a) Health services for children in private nonprofit schools. Payments from the state, towns in which children reside and private nonprofit schools.

**Students**

**Student Health Services**

Legal References: Connecticut General Statutes (continued)

Public Act 18-168 An Act Concerning the Department of Public Health's Recommendations Regarding Various Revisions to the Public Health Statutes

42 U.S.C. 11432(g) McKinney Vento Act

Policy adopted: June 12, 2001  
Policy revised: June 11, 2002  
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Policy revised: June 24, 2004  
Policy revised: June 12, 2007  
Policy revised: November 18, 2008  
Policy revised: October 11, 2011  
Policy revised: March 12, 2013  
Policy revised: June 11, 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: Public Act 18-185 amended the law regarding the administration of medications. The Public Act requires that school bus carriers (either private vendors or boards of education with their own fleets/drivers, etc.) provide training to school bus drivers in the administration of epinephrine (“Epi-Pens”) and the identification of anaphylaxis/anaphylactic shock. Such training must be provided to presently-employed drivers by June 30, 2019, and upon hire for drivers hired on or after July 1, 2019. In addition, Public Act 18-185 also establishes that school bus drivers who render emergency care to students suffering from allergic reactions are immune from civil liability so long as the driver’s actions do not constitute gross, willful or wanton negligence.*

*While the new law establishes immunity for bus drivers and requires that they receive mandatory training in Epi-Pen administration, it does not add school bus drivers to the list of qualified personnel authorized to administer medication to students under the direction of a school nurse. This is an odd result and may have been a drafting error or oversight by the General Assembly. Accordingly, since the text of the law designating employees who may administer medication has not changed and only identifies school nurses, principals, teachers, athletic trainers, physical and occupational therapists, coaches and paraprofessionals as those board of education employees eligible to administer medication to students we recommend only adding the sections on bus driver training and immunity and leaving the rest of the policy as is until such time as the law explicitly designates bus drivers as personnel who may administer medication to students. Such a change may occur in connection with updates to the Department of Education’s school allergy guidelines, which Public Act 18-185 requires the Department to update by January 1, 2020. When the revised guidelines are adopted the Board will likely need to amend Board Policy # 5141.25 – Students with Special Health Care Needs and the District’s Food Allergy and Glycogen Storage Disease Management Plan.*

**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.

## **Students**

### **Administration of Medication**

#### **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.

“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.

#### **Documentation Required**

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.

## **Students**

### **Administration of 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;
  - 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.

#### **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.

## **Students**

### **Administration of Medication**

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
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, may 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 |
|--------|---|

#### 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 |
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| Policy revised: | October 13, 2009   |
| Policy revised: | June 14, 2011      |
| Policy revised: | November 10, 2015  |

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

Language in **RED** constitutes an addition

*COMMENTARY: Public Act 18-51 makes amendments to the definitions of physical restraint and seclusion and requires boards of education to enact policy language on the use of “exclusionary time outs.” The changes below also update the policy to conform with the law with respect to explicitly limiting the use of physical restraint to emergency situations in order to prevent injury to others, requiring continued determinations in fifteen minute intervals on the continued use of restraint or seclusion and employee monitoring of a student who is restrained or secluded.*

**5157(a)**

## **Students**

### **Use of Physical Force**

The Board of Education (Board) believes that maintaining an orderly, safe environment is conducive to learning and is an appropriate expectation of all staff members within the district. To the extent that staff actions comply with all applicable statutes and Board policy governing the use of physical force, including physical restraint of students and seclusion of students, staff members will have the full support of the Board of Education in their efforts to maintain a safe environment.

The Board recognizes that there are times when it becomes necessary for staff to use reasonable restraint or place a student in seclusion as an emergency intervention to protect a student from harming himself/herself or to protect others from harm.

### **Definitions**

**Life-threatening physical restraint** means any physical restraint or hold of a person that restricts the flow of air into a person's lungs, whether by chest compression or any other means, or immobilizes or reduces the free movement of a person's arms, legs or head while the person is in the prone position.

**Psychopharmacologic agent** means any medication that affects the central nervous system, influencing thinking, emotion or behavior.

**Physical restraint** means any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs or head **including but not limited to, carrying or forcibly moving a person from one location to another.** Excluded from this definition is briefly holding a person in order to calm or comfort the person; restraint involving the minimum contact necessary to safely escort a person from one area to another; medical devices including but not limited to, supports prescribed by a health care provider to achieve proper body position or balance; helmets or other protective gear used to protect a person from injuries due to a fall; ~~or~~ helmets, mitts and similar devices used to prevent self-injury when the device is part of a documented treatment plan or individualized education program pursuant to Connecticut's special education laws or prescribed or recommended by a medical professional and is the least restrictive means to prevent such self-injury; **or an exclusionary time out.**

## Students

### Use of Physical Force

#### Definitions (continued)

**School employee** means a teacher, substitute teacher, school administrator, superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional, or coach employed by the Board of Education or working in a public elementary, middle or high school; or any other individual who, in the performance of his/her duties has regular contact with students and who provides services to or on behalf of students enrolled in the district's schools, pursuant to a contract with the Board of Education.

**Seclusion** means the involuntary confinement of a student in a room, ~~with or without staff supervision, in a manner that prevents the student from leaving.~~ **from which the student is physically prevented from leaving. "Seclusion" does not include an exclusionary time out.**

**Student** means a child (A) enrolled in grades kindergarten to twelve, inclusive, in a public school under the jurisdiction of a local or regional Board of Education, (B) receiving special education and related services in an institution or facility operating under contract with a local or regional Board of Education, (C) enrolled in a program or school administered by a regional education service center, or (D) receiving special education and related services from an approved private special education program, but shall not include any child receiving educational services from Unified School District #2 or the Department of Mental Health and Addiction Services.

**Exclusionary time out** means a temporary, continuously, monitored separation of a student from an ongoing activity in a non-locked setting, for the purpose of calming such student or deescalating such student's behavior.

#### Conditions Pertaining to the Use of Physical Restraint and/or Seclusion

- A. **School employees shall not use a physical restraint on a student except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the restraint is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.**
- B. School employees shall not use a life-threatening physical restraint on a student.

## Students

### Use of Physical Force

#### Conditions Pertaining to the Use of Physical Restraint and/or Seclusion (continued)

- C. If any instance of physical restraint or seclusion of a student exceeds fifteen minutes an administrator or his/her designee, or school health or mental health personnel, or a board certified behavioral analyst, who has received training in the use of physical restraint and seclusion shall determine whether continued physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others. Upon a determination that such continued physical restraint or seclusion is necessary, such individual shall make a new determination every thirty minutes thereafter regarding whether such physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others.
- D. No student shall be placed in seclusion unless:
- a. The use of seclusion is as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.
  - b. Such student is continually monitored by a school employee during the period of such student's seclusion. Any student voluntarily or involuntarily placed in seclusion or restrained shall be regularly evaluated by a school employee for indications of physical distress. The school employee conducting the evaluation shall enter each evaluation in student's educational record. Monitor shall mean by direct observation or by observation using video monitoring within physical **proximity sufficient to provide aid as may be needed.**
  - c. The area in which such student is secluded is equipped with a window or other fixture allowing the student a clear line of sight beyond the area of seclusion.

**Seclusion shall not be utilized as a planned intervention in a student's behavioral intervention plan, individualized education program or plan pursuant to Section 504 of the Rehabilitation Act of 1973, as amended from time to time.**

- E. School employees may not use a psychopharmacologic agent on a student without that student's consent except (1) as an emergency intervention to prevent immediate or imminent injury to the student or to others, or (2) as an integral part of the student's established medical or behavioral support or educational plan, as developed consistent with Section 17a-543 of the Connecticut General Statutes or, if no such plan has been developed, as part of a licensed practitioner's initial orders. The use of psychopharmacologic agents, alone or in combination, may be used only in doses that are therapeutically appropriate and not as a substitute for other appropriate treatment.



## Students

### Use of Physical Force

#### Conditions Pertaining to the Use of Physical Restraint and/or Seclusion (continued)

- F. In any instance where an otherwise permissible physical restraint or seclusion exceeds fifteen minutes an administrator, an administrator's designee, school health or mental health personnel, or a board certified behavioral analyst who has received appropriate training in the use of physical restraint and seclusion shall determine whether continued physical restraint or seclusion is necessary to prevent the immediate or imminent injury to the student or to others. Upon a determination that such continued physical restraint or seclusion is necessary, such individual shall make a new determination every thirty minutes thereafter regarding whether such physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others.
- G. In the event that physical restraint or seclusion is used on a student four or more times within twenty school days:
- a. An administrator, one or more of such student's teachers, the parent/guardian of such student and, if any, a mental health professional shall convene for the
    - i. Conducting or revising a behavioral assessment of the student;
    - ii. **Creating or revising any applicable behavioral intervention plan; and**
    - iii. Determining whether such student may require special education.
  - b. If such student is a child requiring special education or is a child being evaluated for eligibility for special education and awaiting a determination, such student's planning and placement team shall convene for the purpose of (1) conducting or revising a behavioral assessment of the student, and (2) creating or revising any applicable behavioral intervention plan, including, but not limited to, such student's individualized education plan
- H. The parent/guardian of a student who is placed in physical restraint or seclusion shall be notified not later than twenty-four hours after the student is placed in physical restraint or seclusion. A reasonable effort shall be made to provide such notification immediately after such physical restraint or seclusion is initiated.

**Students****Use of Physical Force****Conditions Pertaining to the Use of Physical Restraint and/or Seclusion (continued)**

- I. School employees shall not use a physical restraint on a student or place a student in seclusion unless he/she has received **appropriate** training on the proper means for performing such physical restraint or seclusion.
- J. ~~Beginning July 1, 2016, the~~ **The** Board of Education, and each institution or facility operating under contract with the Board to provide special education for children, including any approved private special education program, shall:
  - a. Record each instance of the use of physical restraint or seclusion on a student;
  - b. Specify whether the use of seclusion was in accordance with an individualized education program;
  - c. Specify the nature of the emergency that necessitated the use of such physical restraint or seclusion; and
  - d. Include such information in an annual compilation on its use of such restraint and seclusion on students.
- K. The Board and institutions or facilities operating under contract with the Board to provide special education for children, including any approved private special education program shall provide such annual compilation to the Department of Education in order to examine incidents of physical restraint and seclusion in schools.
- L. Any use of physical restraint or seclusion on a student shall be documented in the student's educational record. The documentation shall include:
  - a. The nature of the emergency and what other steps, including attempts at verbal de-escalation, were taken to prevent the emergency from arising if there were indications that such an emergency was likely to arise; and
  - b. A detailed description of the nature of the restraint or seclusion, the duration of such restraint or seclusion and the effect of such restraint or seclusion on the student's established educational plan.
- M. Any incident of the use of restraint or seclusion that results in physical injury to a student shall be reported to the State Board of Education.

## Students

### Use of Physical Force

#### Conditions Pertaining to the Use of Physical Restraint and/or Seclusion (continued)

- N. Any student who is physically restrained shall be continually monitored by a school employee. Any student who is involuntarily placed in seclusion shall be frequently monitored by a school employee. Each student so restrained or in seclusion shall be regularly evaluated by a school employee for indications of physical distress. The school employee conducting the evaluation shall enter each evaluation in the student's educational record. Monitor shall mean by direct observation or by observation using video monitoring within physical proximity sufficient to provide aid as may be needed.

#### Conditions Pertaining to the Use of Exclusionary Time Outs

- A. Exclusionary time outs shall not be used as a form of student discipline.
- B. During any exclusionary time out at least one school employee shall remain with the student or be immediately available to the student such that the student and school employee are able to communicate verbally throughout the exclusionary time out.
- C. The space used for an exclusionary time out must be clean, safe, sanitary and appropriate for the purpose of calming the student or deescalating such student's behavior.
- D. An exclusionary time out period must terminate as soon as possible.
- E. If a student receiving an exclusionary time out is a child requiring special education as defined in Conn. Gen. Stat. § 10-76a, or a child being evaluated for special education pursuant to Conn. Gen. Stat. § 10-76d, and awaiting a determination and the interventions or strategies are unsuccessful in addressing such student's problematic behavior, such student's planning and placement team shall convene as soon as is practicable to determine alternative interventions or strategies.

#### Required Training and Prevention Training Plan

Training shall be provided by the Board to the members of the crisis intervention team for each school in the district regarding physical restraint and seclusion of students. Such training shall be provided during the school year commencing July 1, 2017 and each year thereafter, and shall include, but not be limited to:

1. An overview of the relevant laws and regulations regarding the use of physical restraint and seclusion on students and the proper uses of physical restraint and seclusion. (Such overview is to be provided on an annual basis by the Department of Education, in a manner and form as prescribed by the Commissioner of Education.)

## **Students**

### **Use of Physical Force**

#### **Required Training and Prevention Training Plan (continued)**

2. The creation of a plan by which the Board will provide training regarding the prevention of incidents requiring physical restraint or seclusion of students. Such plan shall be implemented not later than July 1, 2018.
3. The Board's physical restraint and seclusion plan shall provide training regarding the proper means of physical restraint or seclusion of a student, including, but not limited to:
  - a. Various types of physical restraint and seclusion;
  - b. The differences between life-threatening physical restraint and other varying levels of physical restraint;
  - c. The differences between permissible physical restraint and pain compliance techniques; and
  - d. Monitoring methods to prevent harm to a student who is physically restrained or in seclusion.

#### **Crisis Intervention Teams**

At the commencement of each school year the Board requires each school in the District to identify a crisis intervention team. Such team shall consist of any teacher, administrator, school paraprofessional or other school employee designated by the school principal who has direct contact with students.

Such teams shall respond to any incident in which the use of physical restraint or seclusion may be necessary as an emergency intervention to prevent immediate or imminent injury to a student or to others.

Each member of the crisis intervention team shall be recertified in the use of physical restraint and seclusion on an annual basis.

The administration shall maintain a list of the members of the crisis intervention team for each school.

#### **Dissemination of Policy**

This policy and its procedures shall be made available on the District's website and in the Board's procedural manual. The policy shall be updated not later than sixty (60) days after the adoption or revision of regulations promulgated by the State Board of Education.

## Students

### Use of Physical Force

(cf. 4148/4248 - Employee Protection)

(cf. 5141.23 - Students with Special Health Care Needs)

Legal Reference: Connecticut General Statutes

10-76b State supervision of special education programs and services.

10-76d Duties and powers of boards of education to provide special education programs and services.

**10-236b Physical restraint and seclusion of students by school employees.**

46a-150 Definitions. (as amended by PA 07-147 and PA 15-141)

46a-152 Physical restraint, seclusion and use of psychopharmacologic agents restricted. Monitoring and documentation required.

46a-153 Recording of use of restraint and seclusion required. Review of records by state agencies. Reviewing state agency to report serious injury or death to Office of Protection and Advocacy for Persons with Disabilities and to Office of Child Advocate. (as amended by PA 12-88)

53a-18 Use of reasonable physical force or deadly physical force generally.  
53a-19 Use of physical force in defense of person.

53a-20 Use of physical force in defense of premises. 53a-21 Use of physical force in defense of property.

~~PA 07-147 An Act Concerning Restraints and Seclusion in Public Schools.~~

~~PA 15-141 An Act Concerning Seclusion and Restraint in Schools.~~

**Public Act 18-51 An Act Implementing the Recommendations of the Department of Education**

State Board of Education Regulations Sections 10-76b-5 through 10-76b-11

Policy adopted: February 9, 2016  
Policy revised: February 27, 2018

NEW MILFORD PUBLIC SCHOOLS  
New Milford, Connecticut

## School Law ALERT

*Developments in School Law*



*A publication of Pullman & Comley, LLC*

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# Developments From The 2018 Session of The Connecticut General Assembly: New Laws Affecting The Schools (and Public Employers)

By Mark J. Sommaruga, Esq.

## **INTRODUCTION**

The 2018 Regular Session of the Connecticut General Assembly passed bills that, among other things: (1) revise the Student Data Privacy Act; (2) address budgetary issues stemming from attempts at reducing and rescinding mid-year Education Cost Sharing grants; (3) further define (and/or restrict) the use of seclusion, restraints, and “exclusionary time outs;” and (4) address food allergy issues. **PLEASE NOTE:** Governor Malloy vetoed a bill that would have imposed an obligation upon schools to address “daily classroom safety” via certain mandated procedures; the General Assembly failed to override the veto, but this issue may re-emerge either in another special session or in 2019.

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

## **PRIVACY**

**SPECIAL ACT 18-28: AN ACT CONCERNING STUDENTS' RIGHT TO PRIVACY IN THEIR MOBILE ELECTRONIC DEVICES.** This Act, which was signed by the Governor and took effect upon passage (June 13, 2018), establishes a working group to study and make recommendations concerning issues relating to the search and seizure of students' personal electronic devices. The Act further sets forth the composition of the group (with participation from various organizations, including CABE and CAPSS) and requires the group to submit its findings and recommendations to the General Assembly's Education Committee by January 1, 2019.

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**PUBLIC ACT 18-125: AN ACT CONCERNING REVISIONS TO THE STUDENT DATA PRIVACY ACT.** This Act, which was signed by the Governor on June 7, 2018, amends the Student Data Privacy Act (“SDPA”) in several ways; the SDPA (as amended) takes effect on July 1, 2018. The Act requires the Commission for Educational Technology (“CET”) to immediately develop a student data privacy terms-of-service agreement addendum that may be used in contracts entered into pursuant to the SDPA; the State Department of Education will be required to provide information on this addendum in the guidance that it will be providing to school districts on both the SDPA and the federal Family Educational Rights and Privacy Act – commonly referred to by its acronym – “FERPA.” The Act creates an exception to the SDPA where school districts have special education or Section 504 students using a particular online service that is “unique” and necessary in order to meet the student’s needs but unable to meet the SDPA’s typical contract requirements. This Act eliminates a requirement that school districts electronically notify students and parents of new contracts that are covered by the SDPA; districts would still have to post such notices and such contracts on their websites. This Act requires school districts to report annually to CET concerning district use of online services that do not have a contract that meets the standards required under the SDPA. This Act creates exceptions to the SDPA’s requirement that contractors and operators delete student data (at a school district’s, student’s, or parent’s request) when: (1) deletion is prohibited by state or federal law, or (2) a copy of the data is part of a disaster recovery system. This Act also extends the deadline for the student data privacy taskforce to issue its report to the General Assembly’s Education and General Law Committees until January 1, 2019.

***IMPACT:** If they have not done so already (while trying to comply with the prior October 1, 2016 deadline), school districts will need to ensure that contracts entered into after July 1, 2018 contain those terms specified and mandated in the Student Data Privacy Act, and (subject to any further guidance issued by the State Department of Education) revise their student records policies.*

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### **CLASSROOM SAFETY AND BEHAVIOR (VETOED)**

**PUBLIC ACT 18-89: AN ACT CONCERNING CLASSROOM SAFETY AND DISRUPTIVE BEHAVIOR.** This Act, which was vetoed by the Governor on June 7, 2018, would have mandated that certain specified provisions relating to “daily classroom safety” be included in safe school climate plans, including provisions related to preventing, reporting, investigating, documenting and remediating daily classroom safety violations (such as providing therapeutic supports to aggrieved teachers and students). “Daily classroom safety” is defined as a classroom environment in which students and school employees are not physically injured by other students, school employees, or parents, or exposed to such physical injuries to others. Among provisions to be included in the climate plans, the Act would have required school principals to notify parents, guardians, and their boards of education about daily classroom safety violations (without revealing student names to board members and the parents of other students). The Act would have required school districts to annually report to the State Department of Education instances of daily classroom safety violations. This Act provided that if a teacher removed a student from class (ostensibly

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through a teacher's authority to remove students from class on a short term basis) for a violation of daily classroom safety, the administrator could have placed the student in another educational setting best suited to meet the student's needs. The administrator would then have been prohibited from allowing a student who had been removed from class from returning to the class of the teacher who had such student removed without such teacher's consent, unless the school crisis intervention team (or a team of administrators and teachers designated by the principal) determined that return is warranted because the student received appropriate intervention and support and there were adequate protections in the classroom for the safety of the teacher and other students. This Act would have revised safe school climate provisions that address training (and the role of safe school climate coordinators and teams) to include daily classroom safety.

***IMPACT:*** *While an attempt to override the veto was unsuccessful, school districts may need to monitor attempts in the future to pass a similar bill.*

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### **MID YEAR REDUCTIONS IN ECS GRANTS (VETOED)**

**PUBLIC ACT 18-35: AN ACT PROHIBITING RESCISSIONS OR OTHER REDUCTIONS TO THE EDUCATION COST SHARING GRANT DURING THE FISCAL YEAR.** This Act would have prohibited the Governor from making rescissions or other reductions to education cost sharing grants during the middle of a fiscal year. This Act was **vetoed** by the Governor on June 1, 2018. However, the General Assembly has determined that it is unnecessary to override the veto because...

### **THE STATE BUDGET**

**PUBLIC ACT 18-81: AN ACT CONCERNING REVISIONS TO THE STATE BUDGET FOR FISCAL YEAR 2019 AND DEFICIENCY APPROPRIATIONS FOR FISCAL YEAR 2018.** The "budget bill" (which was signed by the Governor on May 15, 2018) includes a provision prohibiting the Office of Policy and Management from making reductions in the allotment for the education cost sharing grants for the 2018-2019 fiscal year. Among other things, Public Act 18-81 also provides that after the distribution of ECS grants for 2018-2019, any remaining funds will be distributed to municipalities whose school districts received students during 2017-2018 who were displaced by Hurricane Maria. The Act establishes a panel to conduct a study of the Commission on Fiscal Stability and Economic Growth's proposal to reform the Teacher Retirement System; the panel must report its results and recommendations to the General Assembly's Appropriations Committee by January 1, 2019. The Act increases the annual state grant for each student attending a regional agricultural science and technology center from \$3,200 to \$4,200; however, such grants are to be made within available appropriations. The Act requires that a portion of the income tax revenue diverted to the Budget Reserve Fund in 2017-2018 (approximately \$16 million) be transferred to the retired teachers' health insurance premium account.



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**PUBLIC ACT 18-1: AN ACT WAIVING ANY PENALTIES IMPOSED ON A BOARD OF EDUCATION FOR MAKING REDUCTIONS TO ITS BUDGETED APPROPRIATION FOR EDUCATION AS A RESULT OF CUTS TO ITS EDUCATION COST-SHARING GRANT FOR FISCAL YEAR 2018.** This Act (which was signed by the Governor on April 26, 2018) waived for the 2017-2018 fiscal year the penalty for violating the minimum budget requirement ("MBR"), which generally prohibits a town from reducing its budgeted amount for education from the previous fiscal year, under the following circumstances: (1) the town's ECS grant (and/or state rental rebate assistance) was reduced during the previous year as part of the 2017 budget act and mid-year rescissions, and (2) the town subsequently reduced its 2017-2018 budgeted appropriation for education in an amount up to these reductions in state grants. However, the Act prohibits these 2017-2018 reductions in ECS allotments and withholdings from (1) affecting a town's 2018-2019 MBR amount, or (2) determining a town's 2018-2019 ECS aid increase or decrease.

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### **MUNICIPAL BUDGETS AND ADOPTION DATES**

**PUBLIC ACT 18-12: AN ACT PERMITTING THE AMENDMENT OF MUNICIPAL CHARTERS FOR THE PURPOSE OF MODIFYING BUDGET ADOPTION DATES.** This Act, which has been signed by the Governor and took effect upon passage (May 25, 2018), authorizes a municipality (regardless of any contrary laws, charters or ordinances) to amend its charter for the sole purpose of modifying its budget adoption dates upon a two-thirds vote of its legislative body. Such budget adoption dates may include, but need not be limited to, applicable dates relating to an executive presentation of a proposed budget, public hearings, fiscal authority action, publications, referenda or final budget adoption. Any vote by the legislative body of a municipality pursuant to this Act shall include a reference to this Act.

### **OMNIBUS**

**PUBLIC ACT 18-51: AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE DEPARTMENT OF EDUCATION.** Among other things, this Act (which was signed by the Governor on May 24, 2018 and took effect on July 1, 2018) further addresses the use of seclusion and "exclusionary time outs." The Act explicitly provides that seclusion may not be used as a planned intervention in a student's behavioral intervention plan, individualized education program or Section 504 plan. The Act provides that an "exclusionary time out" which is defined as a "temporary, continuously monitored separation of a student from an ongoing activity in a non-locked setting, for the purpose of calming such student or deescalating such student's behavior" would **not** constitute seclusion. The Act requires school districts to establish policies regarding the use of such time outs by January 1, 2019, with certain specified limits concerning the use of time outs (including but not limited to a prohibition against using such time outs as a form of discipline). This Act amends the definition of "physical restraint" (which is generally prohibited) to include carrying or forcibly moving a person from one location to another.

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***IMPACT:*** *School districts may need to revise their seclusion/restraint policies. On its face, this Act confirms that schools will no longer be able to enact behavior plans, education programs or accommodations plans that include seclusion as a planned intervention.*

The Act makes several changes to the **teacher certification** statutes. Among other things, the Act authorizes the Commissioner of Education to allow a teacher with a teacher certification endorsement for grades one through six to teach kindergarten for one year if (1) the teacher holds the grades one through six endorsement issued on or after July 1, 2017 and (2) the superintendent requests the change to the Commissioner. The Commissioner cannot permit a teacher who uses the one year exception to teach kindergarten after that year, except she may extend it for one additional school year if the teacher can demonstrate that he or she is enrolled in a program to meet the requirements for the appropriate endorsement to teach kindergarten. The Act allows the State to suspend (or place on probation) a teacher's certificate, permit, or authorization; currently, the State can only revoke such certification. This Act extends the temporary non-renewable certification from one to three years.

The Act extends the Commissioner's authority to give (1) transportation grants for *Sheff* magnet schools through 2018-2019, and (2) supplemental transportation grants for *Sheff* magnet schools through 2017-2018; the Act also specifies that transportation grants are to be paid to the operator of a magnet school. Furthermore, the Act **exempts** persons employed by school districts to teach noncredit adult classes or adult education activities and who are not required to be certified for the position from the following background requirements: (1) disclosing whether they have ever been convicted of a crime or have criminal charges pending against them, (2) submitting to a Department of Children and Families child abuse and neglect registry records check, and (3) submitting to state and national criminal history records checks.

***IMPACT:*** *School districts may wish to change portions of their background check policies in light of the above background check requirement exemptions for noncredit adult education teachers.*

**PUBLIC ACT 18-182: AN ACT CONCERNING MINOR REVISIONS TO THE EDUCATION STATUTES.** Among other things, this Act (which was signed by the Governor and generally took effect on July 1, 2018) requires the State Board of Education to assist school districts in providing instruction relating to the "Safe Haven Act" (which concerns the voluntary surrender of custody of an infant by a parent). This Act delays by one year the transition of the Technical Education and Career System (formerly, the state technical high school system) into an independent state agency, separate from the State Department of Education. This Act requires the inclusion of instruction on opioid use and related disorders in the mandated curriculum for public school districts. This Act also requires the State Department of Education: (1) to include among its truancy intervention models for school districts, models that address the needs of students with disabilities, and (2) regarding school district chronic absenteeism and prevention plans, to include a means of collecting and analyzing data on student attendance, truancy, and chronic absenteeism for students with disabilities. This Act extends youth service bureau grant eligibility to those youth bureaus who

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applied for grants during the 2017-2018 fiscal year (the prior deadline being June 30, 2017). The Act provides a way for "small" local and regional school districts (i.e., those districts with fewer than 1,000 students) to be exempted from the new requirement that districts enroll as Medicaid providers. This Act establishes a task force to study high school interscholastic athletic program issues; the task force shall submit its report with its findings and recommendations to the General Assembly's Education Committee by January 1, 2019. This Act prohibits local and regional school districts from denying or prohibiting a student from enrolling in an agricultural science and technology education (i.e., vo-ag) center for the 2018-2019 school year if said student (1) was enrolled in a vo-ag center during the 2017-2018 school year, or (2) received notice on or before April 1, 2018 that he/she was admitted by a vo-ag center.

***IMPACT:*** *Depending upon the guidance provided by the State Board of Education, school districts may need to revise their truancy and absenteeism/attendance policies.*

**PUBLIC ACT 18-139: AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE EDUCATION AND EARLY CHILDHOOD STATUTES.** This Act, **which was signed by the Governor and took effect upon passage (June 11, 2018)**, would make various technical revisions to assorted education and early childhood statutes.

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## **SPECIAL EDUCATION**

**PUBLIC ACT 18-183: AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE AUDITORS OF PUBLIC ACCOUNTS CONCERNING PRIVATE PROVIDERS OF SPECIAL EDUCATION.** This Act, **which was signed by the Governor**, requires school districts (beginning July 1, 2019) **to enter into written contracts with private providers of special education services in order to be eligible for excess cost reimbursement.** This Act states explicitly that a student's individualized education program ("IEP") would not constitute such a contract. Such contracts will be subject to any audits by the Auditors of Public Accounts. This Act further provides that such contracts (along with any contracts entered into between July 1, 2018 and June 30, 2019 and covered by current law) must include an explanation of how the provider's tuition or costs for provided services are calculated. The Act also requires the State Department of Education to develop standards and a process for documentation of the provision of special education services provided by private providers, which shall include the use of standard forms or other electronic reporting systems. The Act also requires that whenever a school district determines that the special education needs for a child could be met by an agreement with a private provider of special education services (except for the child's needs for services other than educational services), the provider must submit its operating budget to the State Department of Education. Unless otherwise noted above, this Act takes effect on July 1, 2018.

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**PUBLIC ACT 18-71: AN ACT CONCERNING RISK ASSESSMENT PRACTICES AND THE NEEDS OF CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.** This Act (which was signed by the Governor on June 4, 2018) requires the Commissioner of Children and Families (in collaboration with the Commissioners of Early Childhood, Developmental Services and Social Services) to develop procedures for investigation, assessment and case-planning that are responsive to the needs of children with intellectual and developmental disabilities. This Act also requires the Commissioner of Children and Families to submit a report describing the procedures developed, and any legislative recommendations arising from said collaboration, to the General Assembly's Children Committee by February 1, 2019.

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### **ALLERGIES AND ADMINISTRATION OF MEDICATIONS**

**PUBLIC ACT 18-185: AN ACT CONCERNING THE RECOMMENDATIONS OF THE TASK FORCE ON LIFE-THREATENING FOOD ALLERGIES IN SCHOOLS.** This Act, which was signed by the Governor and took effect on July 1, 2018, requires the State Department of Education to (1) revise and update (a) the Healthy and Balanced Living Curriculum Framework to include life-threatening food allergies and (b) any culinary arts program or curriculum standards related to the National Family and Consumer Sciences Standards to include dietary restrictions, cross-contaminations, and allergen identification, and (2) apply for available federal or private funding, in consultation with the Department of Public Health, to promote public awareness and education about food allergies. This Act also requires the Department of Education to revise as necessary (and make available to school districts) its **guidelines on managing students with life-threatening food allergies and glycogen storage disease**. In addition, by January 1, 2020, the Department of Education (in consultation with the Department of Public Health) must revise these guidelines to include (1) training for the identification and evaluation of students with life-threatening food allergies or glycogen storage disease, and (2) protocols that comply with the protections and accommodations under Section 504 of the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, and the Americans with Disabilities Act. This Act permits a student with a medically diagnosed life-threatening allergic condition (with the written authorization of such student's parent or guardian, and pursuant to the written order of a qualified medical professional) to 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. To accommodate this change, the Act requires school districts to amend their administration of medication policies, or to adopt written policies and procedures, governing how a student may possess, or possess and self-administer, his or her medication.

Additionally, this Act requires school transportation carriers (whether school-provided transportation or private contractors) to provide training to their school bus drivers (by June 30, 2019) that shall include, but need not be limited to, instruction on (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

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involving a student and a life-threatening allergic reaction. Such training may be completed using an online module. The Act amends the “Good Samaritan” laws so as to protect school bus drivers from liability for the emergency administration of epinephrine by a cartridge injector to a student with a diagnosed allergic condition when necessary to protect against serious harm or death. The administration of epinephrine must occur either on or in the immediate vicinity of a school bus during the provision of school transportation services. The immunity from liability would not extend to acts or omissions that constitute gross, willful, or wanton negligence.

***IMPACT:*** *School districts may need to revise their administration of medication policies and procedures.*

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### **PUBLIC HEALTH AND SCHOOL ORAL HEALTH ASSESSMENTS**

**PUBLIC ACT 18-168: AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES.** Among other things, this Act, **which was signed by the Governor and generally took effect on July 1, 2018**, allows a person who holds a professional educator certificate issued by the State Board of Education with a school social worker endorsement to use the title of **school social worker** to describe such person's activities while working in a public or nonpublic school in the state. The Act requires local and regional school districts to request that students have an **oral health assessment** prior to public school enrollment, in Grade 6 or 7, and in Grade 9 or 10. Such an assessment may be performed by a (1) dentist or dental hygienist, or (2) physician, physician assistant, or advanced practice registered nurse, if trained in conducting such assessments as part of a Department of Public Health approved training program. If a dentist conducts the assessment, it must include a dental examination. If another such provider conducts the assessment, it must include a visual screening and risk assessment. The Act prohibits an oral health assessment from being performed unless (1) the student's parent or guardian consents and (2) the assessment is made in the presence of the parent or guardian or another school employee. The parent or guardian must receive prior written notice and have a reasonable opportunity to opt his or her child out of the assessment, be present at the assessment, or provide for the assessment himself or herself. The Act prohibits a school district from denying a child's public school enrollment or continued attendance for not receiving such an oral health assessment. However, a school district must provide prior notice to parents or guardians if the district hosts a free oral health assessment event at which a qualified provider performs such oral health assessments. The Act provides that the parents and guardians must have the opportunity to opt their children out of the assessment event. If the parent or guardian does not do so, the child must receive an assessment free of charge. The Act prohibits the child from receiving any dental treatment as part of the assessment event without the parent's or guardian's informed consent.

The Act provides that the results of an oral health assessment must be recorded on forms supplied by the State Board of Education. For any child who receives an oral health assessment, the results must be included in the child's cumulative health record. The Act requires appropriate school health personnel to review the assessment results.

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When, in the health personnel's judgment, a child needs further testing or treatment, the superintendent of schools must give written notice to the child's parent or guardian and make reasonable efforts to ensure that further testing or treatment is provided. These efforts must include determining whether the parent or guardian obtained the necessary testing or treatment for the child and, if not, advising the parent or guardian on how to do so. The results of the further testing or treatment must be recorded on the assessment forms and reviewed by school health personnel. Records of such assessments are not open to public inspection.

***IMPACT:*** *School districts may need to revise their health assessment policies.*

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### **SCHOOL BUILDING PROJECTS AND GRANTS**

**PUBLIC ACT 18-138: AN ACT CONCERNING AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS.** This Act (which was signed by the Governor on May 31, 2018) authorizes state grant commitments for various specified school building projects. Furthermore, this Act gives the Commissioner of Administrative Services the authority to receive, review and approve or disapprove applications for such grants where a regional educational service center is designated as the project manager in the application.

### **MANDATED REPORTS TO DCF**

**PUBLIC ACT 18-67: AN ACT CONCERNING MINOR REVISIONS TO THE STATUTES OF THE DEPARTMENT OF CHILDREN AND FAMILIES AND ESTABLISHING A PILOT PROGRAM TO PERMIT ELECTRONIC REPORTING BY MANDATED REPORTERS.** Among other things, this Act, which was signed by the Governor on June 1, 2018, permits the Department of Children and Families ("DCF") to establish a pilot program beginning on July 1, 2018 to permit certain categories of mandated reporters of child abuse and neglect to fulfill their responsibilities by submitting a report electronically to DCF or law enforcement, as appropriate, when they have reasonable cause to suspect or believe that a child has been abused, neglected, or is at imminent risk of harm. Such categories shall be chosen at the discretion of the Commissioner of DCF. The Act further provides that commencing on October 1, 2019, all mandated reporters of child abuse or neglect may be able to electronically file their reports. A reporter who files an initial report electronically must respond to further inquiries that DCF makes within 24 hours of the report. The Act requires electronic reports to include the same information currently required for written and oral reports.

***IMPACT:*** *School districts may need to make minor revisions with respect to their policies governing the reporting of abuse and neglect.*

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### **SCHOOL COUNSELORS**

**PUBLIC ACT 18-15: AN ACT CONCERNING SCHOOL COUNSELORS.** This Act, **which was signed by the Governor and took effect upon passage (May 29, 2018)**, adds references to “school counselors” to all the references to “guidance counselors” throughout the statutes.

### **MINORITY TEACHER RECRUITMENT AND CERTIFICATION ISSUES**

**PUBLIC ACT 18-34: AN ACT CONCERNING MINORITY TEACHER RECRUITMENT AND RETENTION.** This Act, **which was signed by the Governor and generally took effect on July 1, 2018**, requires the State Department of Education, in consultation with the Minority Teacher Recruitment Policy Oversight Council, to (1) identify relevant research and successful practices to enhance minority teacher recruitment throughout the state, (2) identify and establish public, private and philanthropic partnerships to increase minority teacher recruitment, (3) utilize innovative methods to attract minority candidates to the teaching profession, particularly in subject areas in which a teacher shortage exists, (4) modernize the process for educators to obtain professional certification by eliminating obstacles to certification to increase competitiveness with other states, (5) identify and utilize high quality, affordable and bias-free educator assessments, (6) adopt cut scores for educator assessments, that do not exceed the multi-state cut scores, to increase competitiveness with surrounding states, (7) support new and existing educator preparation programs that commit to enrolling greater numbers of minority teacher candidates in a manner that supports interstate reciprocity, and (8) advise and support local and regional boards of education to prioritize minority teacher recruitment and develop innovative strategies to attract and retain minority teachers within their districts. This Act also requires the State Board of Education’s five-year comprehensive education plan to include a statement that the state’s teacher workforce should reflect the racial and ethnic diversity of the state. This Act makes changes to the membership of the Performance Evaluation Advisory Council and the Minority Teacher Recruitment Task Force (and requires collaboration between these groups on issues of equity and closing the achievement gap). This Act limits local and regional boards’ of education mandated written minority recruitment plans to educators, rather than staff (as is the current law).

This Act alters the teacher certification statutes regarding cross endorsements in teacher shortage areas for those already holding a certification, ostensibly to make it easier to obtain such endorsements. In addition, the Act provides that any person who has achieved a satisfactory evaluation on an equivalent competency examination or subject area assessment required for educator certification in another state shall not be required to achieve a satisfactory evaluation on Connecticut’s competency examination or subject matter assessment, provided the State Board of Education determines that the requirements for achieving a satisfactory evaluation on such equivalent competency examination or subject area assessment in another state are at least equivalent to Connecticut’s requirements. Finally, this Act requires the State Department of Education to enter into a memorandum of understanding with teacher licensure test vendors to allow applicants to be able to retake the licensure examination free of charge, provided the

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score of the applicant on the initial licensure examination was within a range prescribed by the Commissioner of Education. The State Department of Education will provide educational materials to assist the applicant in retaking the examination.

***IMPACT:*** *School district minority recruitment plans are now only required to address issues pertaining to educators, rather than all staff members.*

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### **CURRICULUM AND INSTRUCTION**

**PUBLIC ACT 18-24: AN ACT CONCERNING THE INCLUSION OF HOLOCAUST AND GENOCIDE EDUCATION AND AWARENESS IN THE SOCIAL STUDIES CURRICULUM.** This Act requires the inclusion of Holocaust and genocide education awareness in the mandated social studies curriculum for public school districts.

**PUBLIC ACT 18-129: AN ACT CONCERNING THE ALIGNMENT OF THE COORDINATED STATE-WIDE READING PLAN WITH THE STATE'S TWO-GENERATIONAL INITIATIVE.** This Act, **which was signed by the Governor and took effect on July 1, 2018**, aligns the coordinated state-wide reading plan for students in kindergarten to grade three with the state's "two-generational" initiative.

### **DISPLACED STUDENTS FROM PUERTO RICO**

**SPECIAL ACT 18-7: AN ACT CONCERNING ASSISTANCE TO SCHOOL DISTRICTS THAT ENROLL STUDENTS FROM PUERTO RICO WHO HAVE BEEN DISPLACED BY HURRICANE MARIA.** This Act, **which was signed by the Governor and took effect upon passage (June 4, 2018)**, allows school districts for the 2018-2019 and 2019-2020 school years to enter into memoranda of understanding with school districts from surrounding towns to share classrooms and other resources for the purpose of educating and supporting recently-enrolled students from Puerto Rico displaced as a result of natural disasters.

### **BACKGROUND CHECKS AND TASK FORCE**

**SPECIAL ACT 18-25: AN ACT ESTABLISHING A TASK FORCE TO STUDY THE PROCESSING AND RETENTION OF FINGERPRINT RECORDS AND CRIMINAL HISTORY RECORDS FOR EDUCATORS.** This Act, **which was signed by the Governor and took effect upon passage (June 13, 2018)**, establishes a task force to study and make recommendations concerning issues relating to the state's system for fingerprinting and processing of state and national criminal history records checks for employees, applicants for employment, substitute teachers and volunteers of local and regional boards of education, interdistrict magnet school operators and regional educational service centers. The Act further sets forth the composition of the task force (with participation from various



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organizations, including CABA and CAPSS) and requires the task force to submit its findings and recommendations to the General Assembly's Education and Public Safety and Security Committees by January 1, 2019.

### **SCHOOL GOVERNANCE COUNCILS AND RETIRED TEACHERS**

**PUBLIC ACT 18-42: AN ACT CONCERNING THE FAILURE TO FILE FOR CERTAIN GRAND LIST EXEMPTIONS, VALIDATING A CONNECTICUT GREEN BANK AGREEMENT AND CERTAIN ACTIONS OF THE CITY OF DERBY, CONCERNING PAYMENT OF A GRANT-IN-AID TO THE TOWN OF DARIEN AND THE CRITERIA OF CERTAIN MEMBERS OF SCHOOL GOVERNANCE COUNCILS AND EXTENDING A PROVISION CONCERNING REEMPLOYMENT OF CERTAIN TEACHERS.** Among other things, this Act (**which was signed by the Governor on May 31, 2018**) specifies that parents or guardians that happen to be public officials are still eligible to serve on elementary, middle, and high school governance councils. This Act also extends the provision permitting retired teachers to be employed at alliance school districts (provided that they were serving as a teacher in that district as of July 1, 2015, and have more than 34 years of credited experience under the teacher retirement system) to June 30, 2018 without being subject to the usual 45% earnings limitation.

### **EARLY CHILDHOOD**

**PUBLIC ACT 18-172 AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE OFFICE OF EARLY CHILDHOOD.** Among other things, this Act (**which was signed by the Governor and took effect on July 1, 2018**) changes the minimum state school readiness grant to a town from \$25,000 to 5% of the total grant allocation while maintaining the \$75,000 cap and current grant calculation method.

**PUBLIC ACT 18-184 AN ACT CONCERNING THE ALIGNMENT AND MERGING OF EARLY CARE AND EDUCATION PROGRAM FUNDING STREAMS, ELIGIBILITY, RATES AND POLICIES.** This Act (**which was signed by the Governor and took effect on July 1, 2018**) authorizes the Office of Early Childhood ("OEC") to use up to 2% from appropriations for certain programs to carry out specified duties (for example, program evaluation and improvement, interagency coordination and collaboration, evaluative tools and infrastructure); however, the Act provides that the OEC (1) cannot spend more than 2% for these purposes from an amount appropriated to the OEC for a single early care and education and child development program, and (2) cannot use any of these funds for administrative or other overhead costs. The Act also adds the promotion of the delivery of infant and toddler services to ensure optimal health, safety, and learning of children from birth to three years of age to OEC's existing list of responsibilities. Effective for 2019-2020, the Act will remove the fixed amount/cap of \$8,927 per child for school readiness programs and instead require the OEC to establish new rates. Finally, the Act adds "transition to preschool" and parental engagement and family supports through the two generational initiative, to the list of permissible uses of unexpended school readiness funds by OEC.

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**PUBLIC ACT 18-123: AN ACT CONCERNING THE STAFF QUALIFICATIONS REQUIREMENT FOR EARLY CHILDHOOD EDUCATION.** This Act, which was signed by the Governor and took effect on July 1, 2018, extends by two years the implementation of new staff qualifications/education requirements for early child education.

### **FREEDOM OF INFORMATION ACT**

**PUBLIC ACT 18-93: AN ACT CONCERNING EMPLOYEE NOTIFICATION OF REQUESTS MADE UNDER THE FREEDOM OF INFORMATION ACT.** This Act (which was signed by the Governor on June 4, 2018 and takes effect on October 1, 2018) provides that whenever a public agency receives a request to inspect or copy records contained in any of its employees' personnel or medical files and similar files, and the agency reasonably believes that the disclosure of such records would **not** legally constitute an invasion of privacy, the agency must first disclose the requested records to the person making the request to inspect or copy such records; this provision is consistent with current Freedom of Information Act ("FOIA") requirements. However, this Act amends the FOIA to also require the agency to subsequently, within a reasonable time after such disclosure, make a reasonable attempt to send a written or electronic copy of the request to inspect or copy such records, if applicable, or a brief description of such request, to each employee concerned and his or her collective bargaining representative, if any.

**PUBLIC ACT 18-95: AN ACT CONCERNING APPEALS UNDER THE FREEDOM OF INFORMATION ACT AND PETITIONS FOR RELIEF FROM VEXATIOUS REQUESTERS.** This Act, which was signed by the Governor and takes effect on October 1, 2018, amends the FOIA so as to provide additional factors that Connecticut's Freedom of Information Commission ("FOIC") must consider when determining whether to decline to hear FOIA complaints, namely, (1) whether the FOIA request or complaint is repetitious or cumulative, (2) whether there is any history by the complainant of nonappearance at FOIC proceedings or disruption of the FOIC's administrative process, including, but not limited to, delaying FOIC proceedings; and (3) the complainant's refusal to participate in settlement conferences conducted by a FOIC ombudsman. In addition, the Act establishes a procedure under which public agencies may petition the FOIC for relief from "vexatious requesters." The petition must detail the conduct which the public agency alleges demonstrates a vexatious history of requests, including, but not limited to: (1) The number of requests filed and the total number of pending requests; (2) the scope of the requests; (3) the nature, content, language or subject matter of the requests; (4) the nature, content, language or subject matter of other oral and written communications to the agency from the requester; and (5) a pattern of conduct that amounts to an abuse of the right to access information under the FOIA or an interference with the operation of the agency. If the FOIC hears and then votes to grant the public agency's petition, the relief granted by the FOIC may include an order that the agency need not comply with future requests from the requester for a period of up to one year.

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### **DISCLOSURE OF SALARY HISTORY**

**PUBLIC ACT 18-8: AN ACT CONCERNING PAY EQUITY.** This Act (which was signed by the Governor on May 22, 2018 and takes effect on January 1, 2019) prohibits an employer from inquiring (or directing a third party to inquire) about a prospective employee's wage and salary history unless the prospective employee has voluntarily disclosed such information. This Act allows an employer to inquire about other elements of a prospective employee's prior compensation structure (as long as the employer does not inquire about the value of the elements of such compensation structure). This Act contains an exception for employers acting pursuant to any federal or state law that specifically authorizes the disclosure or verification of salary history for employment purposes. **Query** whether this Act would limit an employer's ability to make a request under Connecticut's Freedom of Information Act for a prospective employee's personnel file (in situations where the prospective employee worked for a public sector employer).

### **UNEMPLOYMENT COMPENSATION**

**PUBLIC ACT 18-126: AN ACT CONCERNING TECHNICAL AND MINOR CHANGES TO THE LABOR DEPARTMENT STATUTES.** This Act (which was signed by the Governor and takes effect on October 1, 2018) makes changes in the calculation of the State's maximum unemployment compensation benefit rate by basing it on 50% of the average wage of all workers in the State, as opposed to the current 60% of "production and related workers" calculation. The Act provides that the Department of Labor will rely upon the "Connecticut Quarterly Census of Employment and Wages" for determining such average wage of all workers. The Act makes other minor and technical changes to the labor statutes.

### **MUNICIPAL EMPLOYEES AND VOLUNTEERS**

**PUBLIC ACT 18-81: AN ACT CONCERNING REVISIONS TO THE STATE BUDGET FOR FISCAL YEAR 2019 AND DEFICIENCY APPROPRIATIONS FOR FISCAL YEAR 2018.** Among other things, the "budget bill" (which was signed by the Governor on May 15, 2018) provides that no collective bargaining agreement entered into on or after July 1, 2018 between a municipality and an exclusive bargaining representatives of a municipality's employees shall contain any provision limiting the ability of the municipality to permit volunteer services for the maintenance of buildings and grounds, provided there is no impact on the wages or conditions of employment of represented employees.

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

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