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Education Legislation Summary

2018 SESSION CONNECTICUT GENERAL ASSEMBLY

In its 2018 regular session, the General Assembly made a number of changes in the statutes that affect public education in Connecticut. This summary is intended to give you a brief overview of some of the more significant changes that were made this year in the area of education. In addition, for more information about new legislation affecting employers in general, please see our Employment Legislation Summary at: http://www.shipmangoodwin.com/files/45944_empl.leg.sum.summer2018.pdf.

STATUTORY CHANGES AFFECTING STUDENTS:

Restraint, Seclusion and Exclusionary Time Out

Section 4 of Public Act 18-51 [https://www.cga.ct.gov/2018/ACT/pa/2018PA-00051-R00SB-00183-PA.htm], effective July 1, 2018, makes several important revisions to the physical restraint and seclusion law for students. First, the Act clarifies that the use of seclusion as a planned intervention in a student's behavioral intervention plan, individualized education program, or 504 plan is prohibited as of July 1, 2018. There was significant confusion about this issue when the restraint and seclusion law was passed in 2015 as Public Act 15-141. With this revision, it is now clear that seclusion, like physical restraint, may only be used as an emergency intervention to prevent immediate or imminent injury to the student or others.

Second, the Act modifies the definitions of seclusion and physical restraint. The Act clarifies that seclusion involves the involuntary confinement of a student in a room from which a student is *physically* prevented from leaving. The Act also modifies the definition of physical restraint to clarify that it includes, among other things, "carrying or forcibly moving a person from one location to another."

Third, the Act adds a new definition for "exclusionary time out," which is distinct from "seclusion" and is not prohibited as a planned intervention. The Act defines an exclusionary time out 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.* The Act expressly excludes exclusionary time out from the definitions of both physical restraint and seclusion. Further, boards of education must adopt a policy no later than January 1, 2019 regarding the use of exclusionary time outs. Such policy must require, at a minimum, that: (1) exclusionary time outs may not be used as a form of discipline, (2) at least one school employee must remain with the student, or be in close enough proximity to communicate verbally with the student, throughout, (3) the space used is clean, safe, sanitary and appropriate for the purpose of calming such student or deescalating such student's behavior, (4) the exclusionary time out period must terminate as soon as possible, and (5) if such student is a child requiring special education, or a child being evaluated for special education, such student's planning and placement team shall convene as soon as is practicable if interventions or strategies are unsuccessful in addressing such student's

needs, in order to determine alternative interventions or strategies. In addition to developing a policy regarding the use of exclusionary time outs, boards of education should review and revise their policies and procedures regarding physical restraint and seclusion to ensure they are consistent with these new statutory revisions.

Student Data Privacy

Public Act 18-125 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00125-R00HB-05444-PA.pdf] establishes new requirements and exceptions to the existing student data privacy laws affecting boards of education.

Importantly, the Act does not eliminate the requirement under Conn. Gen. Stat. 10-234bb(a) that boards of education enter into a written agreement with a contractor any time such boards share student records, student information, or student-generated content (collectively, "student data") with a contractor. Further, the Act retains the requirement that such contracts must contain ten specific provisions set forth in Conn. Gen. Stat. § 10-234bb(a).

However, Section 1 of the Act requires the Commission for Educational Technology ("CET") to create a uniform student data privacy terms-of-service addendum for use by boards of education and contractors that conforms to the legal requirements for student data privacy. The addendum created by CET is intended to be an option for boards but not a requirement, as the Act does not require the use of such addendum to be in conformance with Conn. Gen. Stat. 10-234bb(a). CET released the Model Terms of Service Addendum [http://www.ct.gov/ctedtech/lib/ctedtech/CT_Model_TOS_Addendum.pdf] in June 2018 for use by boards of education and contractors. We recommend that boards consider whether to use the CET Model Terms of Service Addendum in consultation with legal counsel, as boards may want to pursue data privacy protections that extend beyond those addressed in the CET Model Terms of Service Addendum or have concerns that are not addressed in the CET Model Terms of Service Addendum.

The Act further clarifies that any contract that involves student data entered into between a board and a contractor on or after July 1, 2018 that does not contain either: all of the required contractual provisions under Conn. Gen. Stat. 10-234bb(a) regarding student data, or the CET addendum, is void if a board has given the contractor adequate notice and the contractor fails to amend the contract to include the required contractual provisions or the CET addendum.

Section 2 of the Act, effective July 1, 2018, clarifies the data privacy contract notice provisions. Section 2 amends Conn. Gen. Stat. 10-234bb(g) to provide that boards of education may provide notice to families of the contracts into which such boards have entered by: (1) posting a notice and the copies of the contracts on such boards' internet websites, and (2) providing parents with annual notification of the address of such websites on or before September 1 of each school year. Previously, Conn. Gen. Stat. 10-234bb(g) was unclear as to whether, in addition to the posting requirements above, boards had to also provide separate electronic notice to families each time boards entered into a contract under Conn. Gen. Stat. § 10-234bb(a). Section 2 of the Act makes clear that separate electronic notice is not required.

Section 2 also creates a new, narrow exception to the student data privacy contracting requirements of Conn. Gen. Stat. § 10-234bb(a) related to students with special needs. A local or regional board of education is not required to enter into a contract pursuant to Conn. Gen. Stat. § 10-234bb(a) for the use of an internet website, online service or mobile application that cannot meet the requirements of such section when the following, restrictive, set

of criteria are met: (1) an internet website, online service or mobile application is unique and necessary to implement a student's individualized education program or 504 plan and the contractor is unable to comply with the student data privacy contracting requirements; (2) such internet website, online service or mobile application is FERPA and HIPAA compliant; (3) the board provides evidence upon request that it attempted to enter into a contract for the use of such technology and find equivalent technology operated by a contractor that complies with the student data privacy requirements; (4) the contractor complies with the student data privacy law's requirements related to the security, maintenance, use and disclosure of student data pursuant to Conn. Gen. Stat. § 10-234cc (see more below); and (5) the parent or guardian and, for students receiving special education services, a member of the planning and placement team, sign an agreement that: (a) acknowledges that the parent or guardian is aware the technology does not comply with the student data privacy contracting requirements and (b) authorizes the use of such technology. Beginning with the 2018-2019 school year, section 6 of the Act requires boards of education to submit a report to the CET annually indicating whether the district is using any internet websites, online services or mobile applications without a contract pursuant to this exception. Boards are required to list any such internet websites, online services or mobile applications in this report.

Section 2 also amends Conn. Gen. Stat. § 10-234bb, which contains the student data privacy protections that are required to be in board contracts that provide a contractor access to student data. That statute requires such contracts to include a means for a board to request deletion of student data in possession of the contractor. Section 2 adds exceptions to the board's ability to request such deletion of student data when (1) deletion is otherwise prohibited by state or federal law or (2) the data is stored as a copy as part of a disaster recovery storage system that is inaccessible to the public and that the contractor is unable to use in the normal course of business, unless the data has already been used by the contractor for this purpose.

Conn. Gen. Stat. § 10-234bb(a)(7) requires contracts to include a statement regarding access to student data after services have been rendered. The law previously provided that student data could not be retained or available to a contractor upon the completion of work, unless a student, parent or guardian chose to have an account with the contractor to store data. The Act clarifies that student data may not be retained or available to the contractor after the *expiration* of the contract, except where a student, parent or guardian chooses to *independently* have an account with such contractor after the expiration of the contract.

Conn. Gen. Stat. § 10-234cc (referenced above) requires an operator of an internet website, online service or mobile application that is designed or marketed for school purposes to (1) meet or exceed industry standards designed for the protection of student data and (2) delete student data within a reasonable amount of time if a student, parent, guardian or board of education that controls such data requests that it be deleted. Effective July 1, 2018, section 3 of the Act amends this requirement to provide that the operator need not delete such student data if (1) deletion is otherwise prohibited by state or federal law or (2) the data is stored as a copy as part of a disaster recovery storage system that is inaccessible to the public and that the operator is unable to use in the normal course of business, unless the data has already been used by the operator for this purpose.

Conn. Gen. Stat. § 10-234ee requires the State Department of Education ("SDE") to provide guidance to local and regional boards of education regarding the student data privacy requirements contained in Conn. Gen. Stat. §§ 10-234aa through 10-234dd. Section 4 of the Act amends this section to require

SDE to collaborate with the CET in developing written guidance for school districts regarding the student data privacy laws. It also specifies that such written guidance must include (1) a plain language explanation of how to implement such laws, (2) information about the uniform terms-of-service addendum the CET is required to create pursuant to section 1 of the Act, and (3) how to incorporate such addendum into contracts entered into pursuant to Conn. Gen. Stat. § 10-234bb.

Finally, section 5 of the Act adds the executive director of the Connecticut Association of Schools, or a designee, to a task force created by Public Act 16-189, and amended by Public Act 17-200, to study issues related to student data privacy. The Act also pushes back the date such task force is required to report findings and recommendations to January 1, 2019.

Educational Continuity for Detained Youth

Public Act 18-31 [https://www.cga.ct.gov/2018/ACT/pa/2018PA-00031-R00HB-05041-PA.htm] makes various changes to current law intended to minimize disruption to the education of youth involved in the justice system. Under current law, pursuant to Conn. Gen. Stat. §10-253, unchanged by this Act, the local or regional board of education for the school district in which a juvenile detention facility is located is responsible for providing general and special education and related services to children detained in such facility. Effective August 1, 2018, Section 3 of the Act requires that a child who is enrolled in a school district at the time when such child is placed in a juvenile detention facility shall remain enrolled in that district during such period of detention unless the child voluntarily terminates his or her enrollment. The Act also provides that a detained child shall have the right to return to such school district immediately upon discharge from a juvenile detention facility.

Current law provides that, when a student is not enrolled in a school district when placed in a juvenile detention facility, the student shall be reenrolled in the child's nexus district. If no nexus district is identifiable, the student shall be enrolled in the district where the detention facility is located. Section 3 of the Act requires that such enrollment now occur within three business days of the district receiving notification from the educational service provider at the detention facility that the student is in custody. Section 3 further requires that, when an education service provider learns that a child is going to be discharged, the provider must immediately notify the jurisdiction that will be providing the child's education upon discharge.

Beginning August 1, 2018, section 4 of the Act requires school districts that enrolled at least six thousand students during the 2016-2017 school year to designate at least one employee as a liaison to facilitate any student transitions between the school district and the juvenile and criminal justice systems ("justice liaison"). Such school districts must provide the Court Support Services Division of the Judicial Branch ("CSSD") with an annual written notice of the name, title and contact information for the district's justice liaison on or before August 1st. Justice liaisons are responsible for assisting the school district, the CSSD and any relevant educational service providers to ensure that:

- All persons under twenty-two years of age in justice system custody are promptly evaluated for eligibility for special education services, when deemed necessary by the review conducted pursuant to section 17a-65 and any other applicable law;
- Students in custody and returning to the community from custody are promptly enrolled in school, pursuant to Conn. Gen. Stat. §§ 10-253 and 10-186;
- Students in custody and returning to the community from custody receive appropriate credit for school work completed while in custody, pursuant to Conn. Gen. Stat. §§ 10-253 or 10-220h;

- All relevant school records for students who enter custody and who return to the community from custody are promptly transferred to the appropriate school district or educational service provider, pursuant to Conn. Gen. Stat. § 10-220h.

Section 5 of the Act requires the superintendent and board of the technical high school system to develop and submit a plan by January 1, 2019 to address vocational, technical, and technological education, training, and work experience for children in post-conviction justice system custody. The plan must ensure that, at a minimum, each child has the opportunity to earn at least one credit to meet high school graduation requirements.

Section 6 of the Act requires SDE to develop and implement a plan, by January 1, 2020, to incentivize and support school district participation in a statewide information technology platform that allows real-time sharing of educational records among schools and school districts. The Commissioner of Education is required to report to the education committee of the General Assembly and the Juvenile Justice Policy and Oversight Committee ("JJPOC") by February 1, 2019 on the progress of developing such plan.

Section 7 of the Act also requires the Department of Correction and CSSD to report annually to the JJPOC, no later than January 1, 2019, on compliance with Conn. Gen. Stat. § 46b-126a, which prohibits out-of-school suspensions for children in custody in a state facility. The agencies must also report on compliance at facilities managed by private providers pursuant to a contract with the state, including data on children under eighteen years old who were removed from an educational setting as a result of behavior that occurred in such setting. Section 7 of the Act requires the JJPOC to convene a subcommittee to develop a plan for the coordination, supervision, and direction of all education services and programs for children in custody and for education-related transition services for children returning to the community from custody. The subcommittee will consist of individuals designated by the Commissioner of Education, the Executive Director of CSSD, the Bridgeport and Hartford school districts, the Commissioner of Correction, the Secretary of the Office of Policy and Management, the JJPOC chairpersons, and the executive director of an organization in the state that advocates for vulnerable children. The subcommittee is to be convened by July 1, 2018 and is required to submit the plan to the Education Committee no later than January 1, 2020.

Guidelines for Life-Threatening Food Allergies and Glycogen Storage Disease and Administration of Epinephrine

To address continuing safety concerns regarding students with life-threatening food allergies Public Act 18-185 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00185-R00HB-05452-PA.pdf] makes several changes to the law intended to improve such students' access to medication in an emergency situation. SDE, in conjunction with the Department of Public Health ("DPH"), were statutorily required to develop guidelines for the management of students with life-threatening food allergies and glycogen storage disease in 2012. The existing requirement under Conn. Gen. Stat. §10-212c also required local and regional boards of education to implement a plan based on these guidelines no later than August 15, 2012, make such plan available on the district's website, provide annual notice of such plan to parents and annually attest compliance with such plan to SDE.

Section 1 of the Act requires SDE, in consultation with DPH, to revise its management guidelines no later than January 1, 2020, to include training for the identification and evaluation of such students and 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. Section 1 further requires SDE to

review such guidelines with DPH biennially, make any changes deemed necessary, and make such changes available to local and regional boards of education.

Section 2 of the Act requires SDE, no later than January 1, 2020, to (1) update the department's Healthy and Balanced Living Curriculum Framework to include life-threatening food allergies, (2) update any culinary arts programs or curriculum standards related to the National Family and Consumer Sciences Standards adopted by the State Board of Education ("SBE") to include dietary restrictions, cross-contamination and allergen identification, and (3) apply, in consultation with DPH, for any available federal or private funding for the promotion of public awareness and education about food allergies.

Section 3 of the Act, effective July 1, 2018, includes new obligations for "carriers" relative to the administration of epinephrine to students. "Carrier" is defined as (1) any local or regional school district, any educational institution providing elementary or secondary education or any person, firm or corporation under contract to such district or institution engaged in the business of transporting students, or (B) any person, firm or corporation engaged in the business of transporting primarily persons under the age of twenty-one years for compensation. The Act, in this regard, requires carriers to provide training to school bus drivers employed by such carrier concerning the administration of epinephrine. Such training must include the following: (1) identifying the signs and symptoms of anaphylaxis, (2) administering epinephrine by a cartridge injector ("EpiPen"), (3) notifying emergency personnel, and (4) reporting an incident involving a student's life-threatening allergic reaction. The Act allows such training to be completed online. Carriers must provide such training to all of their school bus drivers by June 30, 2019. Beginning July 1, 2019, carriers must provide such training for existing employed drivers following the issuance or renewal of a driver's public passenger endorsement or upon the hire of a driver if the driver has not already received the training following his or her most recent renewal of such endorsement.

Section 4 of the Act, effective July 1, 2018, authorizes local and regional boards of education to allow students to carry medicine, including asthmatic inhalers, EpiPens or other automatic injectable equipment, pursuant to written policies and procedures approved by the school medical advisor or other qualified licensed physician and that are in accordance with SBE regulations. The previous version of the statute referred only to a student's self-administration, but not possession, of such medication.

Current SBE regulations specify conditions for a student to self-administer medication and for a student with an allergic condition to possess an inhaler or automatic cartridge injector for administering such medication at all times. Reflecting the statutory clarification above regarding a student's ability to possess his or her medication under certain circumstances, section 5 of the Act, effective July 1, 2018, requires the SBE, in consultation with the Commissioner of Public Health, to update its regulations to specify conditions for students to possess medication and for students with an allergic condition to possess an EpiPen at all times, including while receiving school transportation services.

Section 6 of the Act expressly authorizes a student with a diagnosed life-threatening allergic condition to possess and self-administer medication, on or after July 1, 2018, with the written authorization of the student's parent or guardian and a written order of a qualified medical professional.

Section 7 of the Act, effective July 1, 2018, provides immunity from liability for ordinary negligence to a school bus driver who administers an EpiPen to a student on or near a school bus who is in need of emergency care due to a medically diagnosed allergic

condition. This immunity does not extend to acts or omissions by a bus driver that constitute gross, willful or wanton negligence.

New Curriculum Requirements

There are several new curriculum requirements that are in effect for the 2018-2019 school year. Public Act 18-24 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00024-R00SB-00452-PA.pdf] requires that Holocaust and genocide education and awareness be included as part of mandated social studies instruction. In developing and implementing this requirement, the law specifically allows boards to use existing and appropriate public or private materials, personnel and other resources and to accept gifts, grants, and donations, including in-kind donations.

Section 2 of Public Act 18-182 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00182-R00HB-05446-PA.pdf] requires boards to include instruction relating to opioid use and related disorders as part of the substance abuse curriculum in health and safety classes. Section 2 also requires the SBE to make curriculum relating to the Safe Haven Act available to local and regional boards of education and, within available resources, to assist and encourage such boards to implement related curriculum. The Safe Haven Act is codified in Conn. Gen. Stat. §§ 17a-57 to 17a-61 of the Connecticut General Statutes. This law allows a parent to voluntarily surrender physical custody of an infant who is no more than 30 days old to any member of the nursing staff of an emergency room, without being subject to arrest for abandonment. Section 13 requires the Department of Children and Families ("DCF") to provide instructional materials related to the Safe Haven Act to local and regional boards of education upon request and to the SBE to be made available to boards no later than October 1, 2018.

Finally, section 8 of Public Act 18-181 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00181-R00HB-05360-PA.pdf] allows, but does not require, boards of education to include, as part of the mandated science instruction, a climate change curriculum that is consistent with the Next Generation Science Standards. These standards were developed by the National Research Council in 2012 and published as *A Framework for K-12 Science Education: Practices, Crosscutting Concepts, and Core Ideas,* Washington, DC: The National Academies Press. The SBE adopted the standards in 2015 with the intent of implementing them over a five-year period. The SBE is now required to make such materials available to assist local boards of education in developing related instructional materials. This law also requires the Department of Energy and Environmental Protection to be available to boards of education for the development of such curriculum.

STATUTORY CHANGES AFFECTING SCHOOL DISTRICT OPERATION:

Special Education Service Provider Agreements

Legislation passed in 2015 directed the Auditors of Public Accounts (APA) to audit private providers that receive state or local funds to provide special education services to students. Public Act 18-183 Public Act 18-183 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00183-R00HB-05447-PA.pdf] adopts recommendations from the APA resulting from those audits. One of the findings of the APA was that special education services are often provided pursuant to an agreement between a school district and a private provider that is not captured in a formal contract. Auditor's Report: Private Providers of Special Education 2015 - 2016, Auditors of Public Accounts, February 22, 2018 [https://www.cga.ct.gov/apa/reports/performance/PERFORMANCE_Private%20Providers%20of%20Special%20Education_20180222_CY2015,2016.pdf].

As a result of this finding, Public Act 18-183 requires that, beginning July 1, 2019, boards of education must have a written contract, as opposed to merely an agreement, with any private provider of special education services in order to be eligible for excess cost reimbursement. The Act clarifies that a student's individualized education program (IEP) will not be considered a contract for the purpose of determining eligibility for reimbursement.

Though boards may continue to use agreements until July 1, 2019, any agreement entered into after July 1, 2018 but before July 1, 2019, and then subsequently any contract entered into or amended on or after July 1, 2019, between a board of education and a private provider of special education services must include an explanation of how the tuition or costs for the special education services will be calculated. In addition, Section 6 of the Act also extends this requirement to include an explanation of how the provider calculates tuition and costs in any agreement or contract a board enters into with any other provider of special education services, such as other boards of education, private schools or public or private agencies or institutions.

Section 4 of the Act requires SDE to develop standards and a process to document the provision of services by a private provider. The standards and process must include a means to document the scope, type and number of services provided on a daily, weekly and monthly basis, including the name of the student receiving services; the date and length of time each service was provided and the name and signature of the person providing the service. In addition, the standards and process must include either standard forms or an electronic reporting system for a private provider to use. Notably, while this section is effective July 1, 2018, the Act does not specify a date by which such standards must be completed and does not expressly require a private provider to use the form or reporting system developed by the department in order for the school districts to be eligible for excess cost reimbursement.

Finally, beginning July 1, 2018, if a private provider of special education services is providing services pursuant to an agreement or contract with a school district, it must submit its operating budget to the SDE on an annual basis, on or before October 1 of the school year in which such services are provided.

Oral Health Assessments

Effective July 1, 2018, Section 80 of Public Act 18-168 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00168-R00HB-05163-PA.pdf] requires boards of education to request that students enrolled or seeking enrollment in the public schools receive oral health assessments prior to enrollment and in grades six or seven and nine or ten. Importantly, however, boards may not deny a child enrollment or continued attendance for failing to obtain such an assessment. Under the Act, an oral health assessment includes 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 practice registered nurse.

Students are currently required to receive a gross dental screening as part of the health assessment mandated prior to enrollment in public schools and while enrolled in grades six or seven and nine or ten, pursuant to Conn. Gen. Stat. 10-206. Therefore, if such mandated health assessment is performed by a qualified practitioner of medicine, an advanced practice registered nurse or a physician assistant, that provider could also conduct a visual screening and risk assessment for oral health conditions during such examination to constitute an oral health assessment. A dental examination, however, would need to be conducted by a dentist to qualify as an oral health assessment under the Act. SDE is currently amending the Health Assessment Record form to include oral health assessment information.

The Act prohibits boards of education from providing an oral health assessment of a student unless the parent/guardian consents to such assessment and the parent/guardian or a school employee is present. Parents/guardians must receive prior written notice of any oral health assessment being provided by a board and must be given a reasonable opportunity to opt out of the assessment, be present during the assessment or assume responsibility for providing such assessment to the school. However, the Act also provides that boards may host free oral health assessment events for providers to perform oral health assessments of students. If a board hosts such an event, it must notify parents/guardians in advance and parents/guardians must have the opportunity to opt their child out of the event. Students whose parents/guardians do not opt them out would then receive an oral health assessment free of charge. However, in such cases, a student may not receive actual dental treatment as part of the oral health assessment event unless the student's parent provides informed consent for such treatment.

As with the mandated health assessment, if a student receives an oral health assessment, school health personnel must review the results of such assessment and determine if a student is in need of further testing or treatment. The superintendent must provide the parent or guardian with written notice of such need and make reasonable efforts to assure further testing or treatment is provided.

Changes to Mandated Reporting Requirements

Effective July 1, 2018, Public Act 18-17 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00017-R00SB-00244-PA.pdf] adds licensed behavior analysts to the list of individuals mandated to report to the Commissioner of Children and Families any suspected abuse or neglect of a child, pursuant to Conn. Gen. Stat. §17a-101. Any person, including a licensed behavior analyist, who provides services to or on behalf of students in a public or private school in the state is already considered a school employee, as defined in Conn. Gen. Stat. § 53a-65, and therefore subject to mandated reporting requirements for suspected child abuse or neglect. This Act therefore extends such mandated reporting obligations to licensed behavior analysts working outside of schools.

Public Act 18-96 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00096-R00HB-05257-PA.pdf], effective July 1, 2018, similarly adds licensed behavior analysts to the list of individuals mandated to report to the Commissioner of Social Services, pursuant to Conn. Gen. Stat. § 46a-11b, suspected abuse or neglect of a person with intellectual disabilities who is at least eighteen years of age and unable to protect him or herself from abuse, or any person who receives funding or services from the Department of Social Services' Division of Autism Spectrum Disorder Services. Importantly, the Act also reduces from seventy-two hours to forty-eight hours the time anyone mandated to report such suspected abuse or neglect has to make an initial report. The Act provides that unsuccessful attempts to make such initial reports after business hours or on holidays or weekends will not be considered a violation of the requirement to report, so long as reasonable attempts to make the report are made as soon as practicable.

Public Act 18-67 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00067-R00SB-00315-PA.pdf] allows DCF to run a pilot program between July 1, 2018 and September 30, 2019 to allow certain categories of initial reports of suspected abuse or neglect to be made electronically. The Act provides that, beginning October 1, 2019, all initial reports of suspected abuse or neglect shall be made either orally or electronically. It further provides that a mandated reporter who makes an electronic report shall respond to inquiries from DCF within twenty-four hours of such report.

Requests for Personnel or Medical Records

Public Act 18-93 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00093-R00HB-05177-PA.pdf], effective October 1, 2018, clarifies a public agency's responsibilities when responding to requests for employee personnel or medical records under the Connecticut Freedom of Information Act. Under current law, pursuant to Conn. Gen. Stat. § 1-214, when such a request is made and the public employer believes it would be an invasion of privacy to disclose such records, the employer must first immediately notify the employee and the employee's collective bargaining representative, if applicable, to provide an opportunity to object to the disclosure. The Act provides that, when a public employer does not believe it would legally constitute an invasion of privacy to disclose such records, the employer must first disclose the records to the requestor. Subsequently, within a reasonable time after disclosure, the employer must then make a reasonable attempt to send a written or electronic copy or brief description of such request to the employee concerned, and any applicable collective bargaining representative.

The Connecticut Supreme Court has articulated a test for determining whether the disclosure of a record pursuant to Conn. Gen. Stat. § 1-214 would legally constitute an invasion of privacy. In Perkins v. Freedom of Information Commission, 228 Conn. 158 (1993), the Court held that disclosure of such records shall only be considered an invasion of privacy where (1) such records do not pertain to a legitimate matter of public interest and (2) disclosure of such records would be highly offensive to a reasonable person.

Harassing and Vexatious Requestors under the Freedom of Information Act

Effective October 1, 2018, Public Act 18-95 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00095-R00HB-05175-PA.pdf] expands the factors the Freedom of Information Commission must consider when determining if an individual appealing to the FOIC is doing so frivolously and for the purpose of harassing the public agency, including among other factors whether the request or appeal is repetitious or cumulative. The Act also establishes a procedure under which public agencies may petition the FOIC for relief from "vexatious requesters." Relief may include an order that the agency need not comply with future requests from the requester for a period of up to one year.

Background Checks

Effective July 1, 2018, section 9 of Public Act 18-51 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00051-R00SB-00183-PA.pdf] amends Conn. Gen. Stat. § 10-221d to exempt any teacher employed by a local or regional board of education to teach a noncredit adult class or adult education activity, and who is not required to hold a teaching certificate pursuant to Conn. Gen. Stat. §10-67, from the requirement for a criminal history and child abuse and registry background checks.

Reemployed Teacher Exemption

Public Act 18-42 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00042-R00HB-05574-PA.pdf] extends from June 30, 2018 to June 30, 2020 an exemption from the requirement that reemployed teachers receiving retirement benefits may only receive forty-five percent of the maximum salary level for the assigned position. The exemption, which began on July 1, 2016, applies to teachers whose retirement benefit is based on thirty-four years of service or more, and is reemployed by an Alliance district where such teacher was employed on July 1, 2015.

Medicaid Provider Exemption

Sections 15 of Public Act 18-182, [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00182-R00HB-05446-PA.pdf] effective from passage, amends the recently added requirement in Conn. Gen. Stat. § 10-76d for a local and regional board of education to (1) enroll as a Medicaid provider, (2) participate in the Medicaid School Based Child Health Program administered by DSS, and (C) submit billable service information.

The Act now allows districts with fewer than one thousand students to conduct a cost benefit analysis to determine whether the cost to participate in the medical assistance program exceeds the revenue that would be generated. The Act provides that the analysis must be done on a form prescribed by DSS and that a district must conduct and resubmit such analysis every three years to remain exempt. The Act requires the Commissioner of Social Services to create the cost benefit model by September 1, 2018. The commissioner is also required to determine the feasibility of directly certifying students as eligible for Medicaid benefits on behalf of local and regional boards of education.

Enrollment in Vo-Ag Programs

Section 16 of Public Act 18-182 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00182-R00HB-05446-PA.pdf] prohibits a board of education from disallowing a student to enroll in an agricultural science and technology education center for the 2018-2019 school year. This prohibition only applies to a student who (1) was enrolled in such a program during the 2017-2018 school year or (2) received a notice on or before April 1, 2018, that he or she was admitted for enrollment in such program for the 2018-2019 school year. Each center serves a multi-town region of districts that send students who are interested in agricultural science.

Technical High School System

Public Act 18-182 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00182-R00HB-05446-PA.pdf] delays until July 1, 2020 the transition of the Technical Education and Career System ("TECS") to an independent agency. Currently the Commissioner of Education has the authority to hire and terminate the TECS superintendent and SDE provides administrative support to the system. The transition includes the creation of an executive director as the agency head, elimination of SBE as the oversight authority, and the creation of a new TECS board. The Act requires SDE to provide two additional years of training to TECS central office and administrative staff and extends the period SDE has to hire a consultant to assist the TECS board with transitioning the system.

MISCELLANEOUS STATUTORY CHANGES AFFECTING SCHOOLS:

Teacher Certification

Public Act 18-51 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00051-R00SB-00183-PA.pdf], effective July 1, 2018, makes various changes to the teacher certification statutes. Section 5 of the Act now allows the SBE to suspend a teacher's certificate, permit or authorization ("credentials") or to place a teacher's credentials on probation under the same conditions it may revoke such credentials. Under current law, the SBE may only revoke a teacher's credentials. A person whose credentials have been revoked may not be employed by a school district during the period of revocation. The Act provides that a teacher whose credentials have been denied or suspended may also not be employed by a school district during such period of denial or suspension. Under the Act, if SBE places a teacher's credentials on probation, the teacher may be employed by a school district during the period of probation subject to conditions set by the commissioner.

Section 6 of the Act authorizes the Commissioner of Education, upon the request of a superintendent, to permit a teacher who holds an endorsement to teach elementary education grades one to six, issued on or after July 1, 2017, to teach kindergarten for one school year. The commissioner may only permit such teacher to teach kindergarten for one additional year under such endorsement if the teacher can demonstrate that he or she is enrolled in a program to meet the requirements for an endorsement to teach kindergarten.

Section 7 of the Act extends the one-year, nonrenewable temporary teaching certificate to three years for all categories, eliminating the two-year extension for a certification endorsement of bilingual instruction. Section 7 also removes eligibility for a temporary certificate for someone who resided in another state the year before and taught for one year in another state under a current teacher certificate issued in another state. Under the Act, a person who applies for a temporary certificate having taught under an appropriate certificate issued by another state for two or more years must now have taught for two or more years within the ten years immediately preceding the date of application.

Minimum Budget Requirement

By act passed in 2017, towns not designated as alliance districts were allowed to reduce their adopted education appropriation for fiscal year 2018 if the town experienced a reduction in Education Cost Share funding. After the act's passage, there was debate regarding the amount of the allowable reduction. Public Act 18-1 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00001-R00HB-05592-PA.pdf] prohibits the SBE from penalizing any town that reduced its educational appropriation based on the amount of ECS funding the town actually received in fiscal year 2018. To ensure that any such reduction did not carry over and suppress municipal education appropriations in fiscal year 2019, the Act also provides that a town appropriation for education in fiscal year 2019 must be at least as much as the town appropriated the previous year *prior to* making any allowable reductions, plus any increase in ECS in fiscal year 2019.

The Act also changes the definition of aid increase to account for such mid-year reductions. For purposes of the 2019 minimum budget requirement, the Act defines the aid increase as the difference between the town's fiscal year 2019 ECS grant and the amount the town was eligible to receive in 2018 *prior to* any mid-year reductions. The Act maintains the minimum budget requirement for the upcoming fiscal year and the allowable reductions to an education appropriation already included in Conn. Gen. Stat. § 10-262j.

Magnet School Grants

The state distributes interdistrict magnet school grants in two payments. The latter payment, distributed in May, is adjusted to reflect the actual number of students attending each magnet school as of October 1st of that school year. Section 1 of Public Act 18-51 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00051-R00SB-00183-PA.pdf], effective July 1, 2018, moves up the date when the October 1st data is finalized from March 1st to January 31st.

Section 2 of the Act, effective July 1, 2018, modifies Conn. Gen. Stat. § 10-264l, which limits a grant from exceeding a school's reasonable operating budget (less revenue from other sources), to apply, in the aggregate, to the reasonable operating budgets of all of an operator's magnet schools.

Section 3 of the Act, effective July 1, 2018, extends the Commissioner of Education's authority to make magnet transportation grant payments this fiscal year to school districts participating in interdistrict programs that are part of the State's effort to alleviate racial isolation of Hartford resident minority students,

pursuant to Sheff v. O'Neill, 238 Conn. 1 (1996). The Act also extends the commissioner's authority to make supplemental transportation grants to such districts for the transportation of students last fiscal year.

Midyear Reductions in State Aid

In fiscal year 2018, many municipalities experienced a reduction in the education equalization aid grant (otherwise known as "ECS") midway through the year. Any non-alliance district was then authorized to reduce its education appropriation if the town had already passed a budget that assumed a higher ECS grant. For fiscal year 2019, section 10 of Public Act 18-81 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00081-R00SB-00543-PA.pdf] prohibits the Secretary of the Office of Policy and Management from making reductions to municipal aid grants, including ECS. Public Act 18-35 would have prohibited such reductions indefinitely, but the Act was vetoed by the governor, and the veto was sustained by the General Assembly. The authority to make reductions to municipal aid may be another provision that the General Assembly considers for renewal on an annual basis, similar to the MBR, priority school district grants, and magnet school transportation and supplemental transportation grants, among others, based on the constraints on the state budget from year to year.

Minority Teacher Recruitment and Retention

Public Act 18-34 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00034-R00SB-00455-PA.pdf] codifies and builds upon the work that SDE's Minority Teacher Recruitment Oversight Council has engaged in with the minority teacher recruitment task force in recent years to increase minority teacher recruitment and retention.

Directly relevant to board of education responsibilities, under current law, boards of education must develop and implement a written plan for minority staff recruitment so that students interact with teachers from other racial, ethnic, and economic backgrounds to reduce racial, ethnic, and economic isolation. Section 7 of the Act, effective July 1, 2018, limits the scope of the required recruitment plan to include only educators rather than all staff.

To address teacher shortage areas, section 8 of the Act creates an automatic issuance of cross-endorsement in a relevant certification endorsement area that corresponds to a teacher shortage area for any individual who holds an initial, provisional or professional educator certificate on or after July 1, 2018 and achieves a satisfactory evaluation on the appropriate SBE approved subject area assessment.

Section 8 also exempts individuals from having to achieve a satisfactory evaluation on a competency examination or subject area assessment required for educator certification pursuant to Conn. Gen. Stat. § 10-145f who have achieved a satisfactory evaluation on an evaluation or assessment in another state. The exemption only applies if the SBE determines that such other state has requirements that are at least equivalent to the requirements prescribed by the SBE for achieving competency on such an evaluation or assessment.

"Connecticut Grown" Products and Aquaculture

The Connecticut farm-to-school program established pursuant to Conn. Gen. Stat. § 22-38d, encourages the use of Connecticut-grown farm products in schools. The program is administer by the Department of Agriculture, in consultation with SDE, to promote and facilitate the sale of Connecticut-grown farm products by farms to school districts, individual schools, and other educational institutions under SDE's jurisdiction.

Public Act 18-73 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00073-R00SB-00106-PA.pdf], effective October 1, 2018, requires anyone who sells a Connecticut-grown farm product through the Connecticut farm-to-school program to offer evidence to the school district, school, or educational institution buying the product that it was produced in Connecticut. The proof must include the name of the person or business that produced the product and the name and address of the farm where it was produced. The Act also allows the agriculture commissioner to designate one or more suitable shellfish parcels for use by one or more nonprofit education or conservation organizations to develop an aquaculture site for an environmental education curriculum.

School Counselors

SDE no longer issues guidance counselor endorsements, and instead now issues school counselor special services certificate endorsements. To conform statutes with this practice, Public Act 18-15 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00015-R00SB-00186-PA.pdf], effective July 1, 2018, adds the term "school counselor" to every statute that references "guidance counselor". The Act does not remove reference to guidance counselors and SDE still recognizes the guidance counselor endorsement.

Funding of Youth Service Bureaus

Youth service bureaus coordinate community-based services that provide prevention and intervention programs for delinquent, pre-delinquent, pregnant, parenting, and troubled youths and their families, referred to them by schools, police, juvenile courts, and others. Section 1 of Public Act 18-182 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00182-R00HB-05446-PA.pdf] extends funding eligibility for fiscal year 2019 for youth service bureaus that applied for funding in fiscal year 2018 to receive funding from SDE.

Truancy Intervention Models

Public Act 16-147 removed truancy and defiance of school rules as grounds for Family with Service Needs ("FWSN") referrals to juvenile court as of August 15, 2017. The Act also required SDE to identify effective truancy intervention models that boards of education may implement. SDE published a Catalogue of Truancy Intervention Models [https://portal.ct.gov/-/media/SDE/Truancy/TruancyInterventionCatalog_FINAL.pdf?la=en] in March of this year. To expand on the truancy interventions already identified, section 4 of Public Act 18-182 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00182-R00HB-05446-PA.pdf] requires SDE to include truancy intervention models that specifically address the needs of students with disabilities by August 15, 2018.

Task Force on Interscholastic Athletic Programs

Sections 14 of Public Act 18-182 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00182-R00HB-05446-PA.pdf], effective from passage, creates a twelve-member task force to study the governance, financing, general conduct, and role of high school interscholastic athletic programs in Connecticut. The task force is required to examine and report findings and recommendations to the General Assembly no later than January 1, 2019 on topics including (1) barriers to participation in sanctioned interscholastic athletic activities; (2) the impact of nonsanctioned activities on interscholastic sports participation; (3) financing of interscholastic athletic teams; (4) policies regarding performance reviews of interscholastic athletics by school districts; (5) the length of the athletic season for specific sports and restrictions on participation in interscholastic athletics; (6) academic requirements for participation in interscholastic athletics; (7) safety and sportsmanship of participants and spectators; and (8) issues relating

to the participation of students enrolled in nonpublic schools and schools of choice.

Members of the task force include six members appointed by the legislative leaders as well as representatives from the Connecticut Interscholastic Athletic Conference, Connecticut High School Coaches Association, Connecticut Athletic Directors Association, Connecticut Association of Boards of Education, Connecticut Association of Public School Superintendents and Connecticut Parent Teacher Association.

Volunteers and Municipal Collective Bargaining Agreements

Section 59 of Public Act 18-81 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00081-R00SB-00543-PA.pdf], effective July 1, 2018, prohibits any collective bargaining agreement entered into between a municipality and the exclusive bargaining representative of the municipality's employees to limit the use of voluntary services for the maintenance of buildings and grounds, so long as there is no impact on wages and working conditions of the represented employees.

Study of the Search and Seizure of Students' Personal Electronic Devices

Effective on passage, Special Act 18-28 [https://www.cga.ct.gov/2018/ACT/sa/pdf/2018SA-00028-R00HB-05170-SA.pdf] establishes a working group to study and make recommendations related to the search and seizure of students' personal electronic devices. The working group is required to submit a report on its findings and recommendations to the General Assembly no later than January 1, 2019.

Study of Reforms to the Teachers' Retirement System

Section 58 of Public Act 18-81[https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00081-R00SB-00543-PA.pdf], effective from passage, establishes a panel to study the proposal made by the Commission on Fiscal Stability and Economic Growth regarding reforms to the Teachers' Retirement System. The study must consider such options as (1) contribution of lottery proceeds to the Teachers' Retirement Fund, (2) future re-amortization of remaining fund liabilities when current bonds obligations are satisfied, and (3) creation of a hybrid defined benefit/contribution plan for new teachers with risk sharing on investment returns. The results of the study must be reported to the General Assembly no later than January 1, 2019, with any recommendations for reform and corresponding legislation. The commission members are appointed by the six legislative leaders and must each be an expert in one of the following areas: public pensions, finance, bonding, defined benefit plans or defined contribution plans.

Task Force to Study the Processing and Fingerprint Records and Criminal History Records for Educators

Effective from passage, Special Act 18-25 [https://www.cga.ct.gov/2018/ACT/sa/pdf/2018SA-00025-R00SB-00459-SA.pdf] created a task force to study the fingerprinting and processing of state and federal background checks for educators required by Conn. Gen. Stat. § 10-221d. Members of the task force include the commissioners of Education and Emergency Services and Public Protection, or their designees, and one representative each from the Alliance of Regional Educational Service Centers, the Connecticut Association of Public School Superintendents, the Connecticut Association of Boards of Education, the Connecticut Association of Schools, the Connecticut Education Association, and the American Federation of Teachers-Connecticut. The task force is required

to report its findings and recommendations to the General Assembly by January 1, 2019.

School Governance Council Members

Effective July 1, 2018, section 8 of Public Act 18-42 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00042-R00HB-05574-PA.pdf] clarifies that a public official is not precluded from serving as any one of the seven members of a school governance council who are the parent or guardian of a student at the school.

Fiscal Considerations

Public Act 18-81 [https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00081-R00SB-00543-PA.pdf] makes a number of additional changes to state education funding not previously mentioned. Section 15 of the Act designates a one and a half million dollar ($1.5M) appropriation for Talent Development to support the teacher education and mentoring program known as TEAM. Section 19 of the Act appropriates $400,000 to SDE to support bilingual education programs. Section 22 of the Act transfers money from the Budget Reserve Fund to the teachers' health insurance premium account, bringing the total contribution to the teacher's retiree health plan for the year up to about 33% of the estimated expenditure for the teachers' retiree health basic plan for fiscal year 2019, as reported by the Office of Fiscal Analysis. Section 37 of the Act provides that any remaining education equalization aid grant funds remaining after the formula distribution will go to school districts that received students displaced by Hurricane Maria during the 2017-2018 school year. The distribution of such funds are reflected in the municipal aid distribution estimates released by the Office of Fiscal Analysis [https://www.cga.ct.gov/ofa/Documents/year/GT/2018GT-20180509_Estimates%20of%20Statutory%20Formula%20Grants%20to%20Towns%20Revised%20FY%2019.pdf].

The following accounts that support education-related programs received reductions in the modified budget for fiscal year 2019:

- Regional Education Service Centers - approximately $90,000
- Excess Cost Grants - approximately $1.5 million
- Interdistrict Cooperative Grants - approximately $1.5 million
- Priority School District Grants - approximately $1 million

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