

## 2010 SESSION

## CONNECTICUT GENERAL ASSEMBLY

*In its 2010 session, the General Assembly passed a number of new laws affecting boards of education and school districts. The following is a general summary of these new laws. Application of a specific law to a particular set of facts or particular situation may require a more detailed analysis of the law's provisions. These new laws are available online through the General Assembly website at [ftp://ftp.cga.ct.gov/2010/act/PA/pdf](http://ftp.cga.ct.gov/2010/act/PA/pdf) ([ftp://ftp.cga.ct.gov/2010/act/Sa/pdf](http://ftp.cga.ct.gov/2010/act/Sa/pdf) for special acts).*

### General Assembly Enacts Major Educational Reform Bill

In an effort to support Connecticut's application for Race to the Top funding, the Connecticut legislature passed Public Act ("P.A.") 10-111, "An Act Concerning Education Reform in Connecticut," which makes substantial changes to the laws regarding public schools in Connecticut in areas such as curriculum, teacher tenure, charter schools, and other areas. Some of the more significant changes are outlined below.

**Graduation Requirements.** P.A. 10-111, Section 16, increases the number of credits required for students to graduate from 20 to 25, beginning with classes graduating in 2018. Under this new law, students graduating in 2018 and thereafter will be required to complete not fewer than 9 credits in humanities; 8 credits in science, technology, engineering and mathematics; 3 ½ credits in career and life skills; 2 credits in world languages; and 1 credit in a senior demonstration project or its equivalent. The law also requires, beginning with the Class of 2018, end of the school year examinations in certain "core courses"

such as Algebra I, geometry, biology, American history and grade 10 English. These examinations are to be developed by the State Department of Education ("SDE") beginning on and after July 1, 2012.

**Online Coursework.** Section 16 of P.A. 10-111 provides that certain courses may be taken online, provided a board of education has adopted a policy for granting credit for online coursework and other specified conditions are satisfied, such as ensuring that the online course workload is equivalent to that of a course taught in a traditional classroom setting.

**Student Support and Remedial Services.** Beginning with classes graduating in 2018, Section 16 also requires boards of education to provide adequate student support and remedial services for students beginning in grade seven. These supports are intended to provide an alternate means for students to satisfy graduation requirements and may include such things as allowing

the student to retake courses in summer school or through online courses, allowing a student to enroll in a course through approved colleges and/or universities; or providing for alternate forms of an exam if the student fails an end-of-year exam. For the fiscal years ending June 30, 2013 to June 30, 2018, the SDE is required to, within available appropriations, provide grants to assist boards in meeting the new curriculum standards. On or before November 1, 2012, and biennially thereafter, boards of education seeking such grant assistance from the SDE must report on the status of their educational reform efforts, and explain why additional funding is necessary. Section 18, P.A. 10-111.

**Employment of Teachers.** Current law requires that teacher evaluations include a teacher's strengths, areas needing improvement, and strategies for improvement. On or before July 1, 2013, Public Act 10-111, Section 4, requires that teacher evaluations also include "multiple indicators of student academic growth" and the State Board of Education ("SBE") is charged with adopting guidelines for a model teacher evaluation program to include guidance on how to use multiple indicators of student academic growth in evaluating teachers. The SBE must publish these guidelines on or before July 1, 2013. Section 8 of the law also expands opportunities for school districts to reemploy retired teachers collecting pensions from the Teachers' Retirement System. Among other changes, it eliminates the reference to "temporary employment," and clarifies the limitations on reemployment of teachers receiving retirement benefits. In addition, it expands to retired teachers employed by priority school districts the special rules that apply to teachers in shortage areas.

The law also changes the way in which some teachers in Connecticut achieve tenure. Current law allows for certain teachers who previously have received tenure in Connecticut to achieve "fast track tenure" in twenty school months. P.A. 10-111, Section 9 allows teachers who have previously attained tenure in another district to achieve tenure after only ten school months if the new district is a "priority" school district, as that term is defined under the law. Notably, such teachers do not

need to have been employed by a board of education within the last five years, and need not ever have been employed by a board of education in Connecticut before being employed in the "priority" district.

**Charter Schools.** Effective from passage, Section 13 of P.A. 10-111 requires the SBE to waive enrollment limits for charter schools that it determines to have a demonstrated record of achievement. The law also eliminates the requirement that, when the SBE issues charters for state and local charter schools, it does so only within available appropriations. In addition, this new law makes permanent the charter school facility grant program, which was scheduled to end as of June 30, 2009. Finally, P.A. 10-111 expands opportunities for charter school teachers to participate in the Teachers' Retirement System.

**"Innovation Schools" and Schools in Need of Improvement.** Effective July 1, 2010, P.A. 10-111, Section 6, allows the board of education of a priority school district, through agreement with the teacher and administrator unions, to convert an existing school into an "innovation school" or establish a new school as such. An "innovation school" operates under an innovation plan that articulates areas of autonomy and flexibility in the curriculum, budget, school schedule and calendar, school district policies and procedures, professional development, and staffing policies and procedures, including waivers from or modifications to collective bargaining agreements. In an innovation school, either (1) the faculty and district leadership, or (2) an external partner is responsible for developing the innovation plan, as described below. The law requires the superintendent of schools to annually evaluate innovation schools, and submit the evaluation to the board of education and the Commissioner of Education. The board of education may take certain action specified in the statute if the superintendent determines that the school has substantially failed to meet the goals outlined in the innovation plan.

Under current law schools and districts identified as being "in need of improvement" must take certain steps aimed at remediation. Effective July 1, 2010,

Section 21 of P.A. 10-111 provides for the creation of school governance councils for schools that are identified as being in need of improvement and that require corrective action under the No Child Left Behind Act (“NCLB”). Whether a board of education is either (1) authorized or (2) required to establish a governance council depends on a particular school district’s degree of academic underperformance. This law also provides that, by affirmative vote, a school governance council may vote to reconstitute the school into one of several models for a period of up to five years. The board of education is required to hold a public hearing to vote on the governance council’s vote to reconstitute the school. The board of education then votes on whether to accept that recommendation or to adopt an alternative reform model, and in cases of disagreement, the Commissioner decides which model to implement. In any event, the SDE may not allow more than twenty-five schools to reconstitute each year. Finally, Section 21 permits the SBE to authorize the Commissioner to reconstitute local or regional boards of education in low-achieving school districts if the board receives training and the district fails to make satisfactory progress against benchmarks established by the SBE and fails to make adequate yearly progress in accordance with NCLB.

**Parent-Teacher Conferences.** Beginning with the 2010-2011 school year, boards of education must adopt policies that require the district to conduct two “flexible parent-teacher conferences” per school year. There is no statutory definition of “flexible parent-teacher conferences,” and thus local and regional boards of education appear to have some “flexibility” in complying with the statute. Possibilities include parent-teacher conferences that are scheduled at other than a set time, or that are scheduled outside the regular school day. Section 29.

**Advanced Placement Courses.** Beginning July 1, 2011, boards of education will be required to provide an “advanced placement course program,” which is defined as a program that “provides courses at the high school level for which an advanced placement examination is available through the College Board.”

The SBE is required to develop guidelines to aid in the training of teachers for the teaching of advanced placement courses “to a diverse student body.” Section 31.

**Student Discipline and In-School Suspensions.** Prior law required that, on and after July 1, 2010, all student suspensions shall be in-school suspensions unless the administration determines at a hearing that the student poses such a danger to persons or property, or such a disruption of the educational process, that the student should be excluded from school. Section 20 of P.A. 10-111 further refines existing state law by allowing out-of-school suspensions if the administration determines that an out-of-school suspension is appropriate based on (1) the student’s previous disciplinary problems that have led to suspensions or expulsions, and (2) efforts by the administration to address the student’s disciplinary problems through means other than out-of-school suspensions or expulsion, including positive behavioral support strategies. Districts are well advised to identify such “positive behavioral support strategies” in advance, including curriculum elements and/or conferences with students before and after disciplinary action is taken. Boards of education must also ensure that student discipline policies are updated prior to the start of the 2010-2011 school year to reflect these important legislative changes regarding the imposition of student suspensions.

**Other Important Changes:** P.A. 10-111 also makes a number of other significant changes, some of which are detailed below:

- Effective July 1, 2010, this law establishes a nine-member task force to study, monitor and consider effective ways to close the achievement gap between racial and socioeconomic groups in Connecticut. The task force is required to submit a report on its findings by January 1, 2011. Section 30.
- Beginning with the 2012-2013 school year, for students, beginning in grade six, boards of

education must collect information that records students' career and academic choices in grades six through twelve. Section 16.

- Effective July 1, 2010, school districts with a dropout rate of 8% or higher in the prior school year will be required to establish an online credit recovery program to allow students in danger of failing to graduate to complete online coursework for credit towards graduation requirements. The law requires each such school to designate, from among existing staff, an online learning coordinator. Section 28.
- P.A. 10-111 allows the State Department of Education to establish a board examination series pilot program that would allow boards of education to permit students in grades nine through twelve to graduate from high school if they achieve a passing score on a series of examinations approved by the State Board of Education, in lieu of meeting the graduation requirements set forth under state law. Beginning with the school year commencing July 1, 2011, boards of education will be required to allow students in grades nine through twelve to graduate from high school if they successfully pass the board examination series. Section 17.
- Beginning July 1, 2013, this new law expands the existing state-wide public school information system. Section 3.
- Effective July 1, 2010, at the request of an employing board of education, the Commissioner may waive superintendent certification requirements for a person "who has successfully completed at least three years of experience as a certified administrator with a superintendent certificate issued by another state in a public school in another state" within the past ten years. Section 2.
- Effective July 1, 2010, the SDE is required to review and approve an alternate route to certification program for school administrators. Section 1.
- Effective July 1, 2010, Section 5 of P.A. 10-111 creates a Performance Evaluation Advisory Council within the SDE, which is required to meet at least quarterly. This council is responsible for (1) assisting the SBE in the development and implementation of teacher evaluation guidelines, and (2) the data collection and evaluation support system required under the law.
- Effective July 1, 2010, this law expands the entities eligible to receive funding from the Commissioner to provide professional development services, technical assistance and evaluation activities to boards of education and other educational entities in Connecticut. Under prior law, only regional educational service centers ("RESCs") were permitted to receive funds to provide such services. Section 10.

## Other New Laws Affecting Education

### **Appropriations and Special Education Excess Cost Grants.**

Under Public Act 10-179, the Connecticut legislature made adjustments to the appropriations to a number of state agencies for the 2011 fiscal year. Among other things, the law increases the amounts to be paid to towns under special education excess cost grants and grants the Commissioner the authority to provide supplemental grants to the Hartford Public School District and Capitol Region Education Council ("CREC") for transporting students who are not residents of Hartford to their interdistrict magnet schools.

### **Children Placed by the Department of Children and Families.**

Effective July 1, 2010, Public Act 10-160 provides that whenever a child is placed in out-of-home care pursuant to 1) an emergency order by the Department of Children and Families ("DCF"); or 2) an order of temporary custody or commitment order, DCF must immediately determine whether it is in the best interests to have the child remain in the school of origin. As is the case with the federal McKinney Vento law regarding homeless students, this new law



creates a presumption that it is in the best interest of such child that he or she continue to attend the school he or she attended before the DCF placement, with such presumption to continue for the duration of the out-of-home placement. In such cases, the board of education where the child previously attended school continues to be responsible for providing the student with free school privileges, for as long as the student continues to attend the school of origin. DCF must collaborate with the school of origin to develop a transportation plan for the student, and DCF will be responsible for any additional or extraordinary transportation costs incurred as a result of the need to transport the child to and from his/her school of origin. If the child continues to attend his/her school of origin, the board of education of the school of origin will not be eligible for the special education excess cost grant otherwise available for state agency placements (which limit financial responsibility to the lesser of 100% of the reasonable costs of such special education or the average per pupil costs for the prior fiscal year). However, for special education students whose program costs are considered “catastrophic” (e.g. they exceed four and one-half times the per pupil expenditure), excess costs reimbursement continues to be available.

**IEP Task Force Established.** Special Act 10-9, “An Act Concerning Individualized Educational Programs,” establishes a task force to study individualized education programs (“IEPs”), including a review of existing procedures for the development of IEPs, and examination of relevant laws and ways to address noncompliance. The task force must submit a report on its findings to the General Assembly by February 1, 2011.

**Autistic Students.** Starting July 1, 2012, school districts providing applied behavior analysis (“ABA”) services to students with autism are limited in who may be permitted to provide such services. P.A. 10-175 requires that ABA services may only be provided by: (1) an individual licensed by the Department of Public Health or certified by the Department of Education, provided such services are within the scope of practice

of such license or certification; (2) a behavior analyst certified by the Behavior Analyst Certification Board; (“BCBA”) or (3) an assistant behavior analyst working under the supervision of a certified behavior analyst. A teacher or paraprofessional will be permitted to provide ABA if he/she is working under the supervision of one of these licensed or certified persons. Should the Commissioner determine that there are insufficient certified or licensed personnel available to provide ABA services after July 1, 2012, this law further provides that other individuals may be permitted to provide ABA services as long as they have met certain minimum educational standards and are working under the supervision of a BCBA.

**Boards of Education Not Required to Post Meeting Minutes on Website.**

Current law requires the minutes of all meetings of public agencies to be made available for public inspection and posted on the public agency’s website, if available. Section 4 of Public Act 10-171 provides that, effective October 1, 2010, public agencies (including boards of education) will not be required to post such meeting minutes on the website, even if a website is available.

**Student Athletes and Concussions.** Under new law, Public Act 10-62, anyone who holds a coaching permit issued by the SBE must be trained periodically in how to recognize and respond to head injuries and concussions. The law requires initial training to be completed prior to the start of coaching, with annual review of information regarding concussions starting July 1, 2011, and a refresher course every five years. Beginning in July 1, 2010, coaches are not required to conduct an annual review in a year when they must complete a refresher course. The training course, review materials and refresher course are to be developed by the SBE in consultation with the Connecticut Interscholastic Athletic Conference (“CIAC”) and organizations representing licensed athletic trainers and medical associations. Finally, effective July 1, 2010, coaches will be required to remove from competition or practice any student athlete who (1) shows signs of having suffered a concussion after an observed or suspected blow to the

head or body, or (2) is diagnosed with a concussion. The athlete must remain out of the game or practice until a licensed medical professional provides written clearance allowing the student to return to participation.

**Vocational-Technical Schools.** The legislature has passed two new laws affecting vocational-technical schools. The first, Section 29 of Public Act 10-3, requires that, by January 1, 2011, the Commissioner and the superintendent of the vocational-technical school system must establish and administer licensed practical nurse (“LPN”) programs at various vocational-technical schools throughout the state unless the Commissioner gives notice by November 1, 2010 of the inability to do so, and the reasons why these programs can’t be established. The new law further provides that if the appropriate funds are insufficient to cover the program’s costs, student tuition may be used to cover any shortfall in funding.

P.A. 10-76 also contains a number of changes to the operation of vocational-technical schools. Specifically, this law changes the process required before the SBE can close or suspend operations of a vocational-technical school for more than six months. Under the new law, a vocational-technical school may not be closed or have its operations suspended without first having a public hearing, a formal vote, and the submission of a comprehensive plan for the target school by the SBE. Should a school be closed or have its operations suspended, the SBE is now responsible for transporting students to another vocational-technical school during any period of suspension or closure.

Among other changes, Public Act 10-76 also 1) increases the membership of the SBE from 11 to 13 members; 2) immediately requires that at least two members of the SBE have either manufacturing or trade experience, be alumni or have been educators at a vocational-technical school; and after April 1, 2011, 3) requires at least one board member have experience in agriculture, be an alumnus or have served as an educator at a regional agricultural science and technology education center.

Other immediate changes (effective July 1, 2010) include: 1) the abolishment of the existing statewide advisory committee on regional vocational technical schools; 2) requiring an annual meeting between various individuals (including the superintendent of the vocational-technical system) and the respective legislative committee to review updated information regarding the operation and curriculum of vocational-technical schools; 3) a mandate for the SBE to replace any school bus that is twelve years or older and that is either in service or has been subject to an out-of-service order for two consecutive years for the same reason; and 4) a requirement that the SBE inspect all school buses on or before July 15, 2010, with annual inspections to continue thereafter. The superintendent of the regional vocational-technical school system must also submit a report on bus replacements in the vocational-technical school system on an annual basis. Finally, this law provides that, starting in the fiscal year ending June 30, 2011, the budget for the regional vocational-technical school system shall be a separate budgeted agency from the SDE and effective immediately, the superintendent of the regional vocational-technical school system must make biannually submit the operating budget and expenses for each individual regional vocational-technical school and make such update available on the school system website.

**Seatbelts on School Buses.** In an effort to encourage districts to provide buses with seatbelts, Public Act 10-83 requires the Department of Motor Vehicles (“DMV”) to administer a program to help pay for school buses equipped with 3-point lap/shoulder seat belts. School districts may apply to participate in the program by submitting an application to the DMV between July 1, 2011 and December 31, 2017 which includes a proposed agreement between the district and the school bus company. The proposed agreement must require each bus company to provide the district with between one and fifty school buses equipped with 3-point lap/shoulder seat belts. The application also must include a request by the bus operator for funds in an amount equal to 50% of the sales tax paid by

the bus company for the purchase of a school bus so equipped that is purchased on or after July 1, 2011. School districts participating in the program are required to provide parents/guardians of students transported on such school buses with written notice concerning the availability and proper use of seat belts and the district must instruct students on the proper use of such seat belts. The law also exempts school districts, bus companies and bus operators from liability for damages for injury resulting solely from a student's use, misuse or failure to use a seat belt installed on a school bus in the program.

#### **In-service Training in Teen Dating Violence and Domestic Violence.**

Current law requires boards of education to provide teachers, administrators and pupil personnel with in-service training on certain topics. Effective July 1, 2010, Public Act 10-91 adds teen dating violence and domestic violence to the long list of topics to be covered under the in-service training requirements set forth in Conn. Gen. Stat. §10-220a(a). The law also expressly permits boards of education to allow noncertified employees to participate in in-service programs on a voluntary basis.

#### **Changes to Minimum Budget Requirement and Various Educational Grants.**

Effective from passage, Public Act 10-151 provides that, for the fiscal year ending June 30, 2010, towns whose school districts had fewer students enrolled in the 2009-2010 school year than in the 2008-2009 school year may reduce their minimum budgeted appropriation by the difference in number of resident students multiplied by 3,000.

This new law further provides that, for the fiscal year ending June 30, 2011, and each fiscal year thereafter, certain towns that no longer meet the qualifications for school readiness grants may continue to receive such grants. Among other changes to educational grants, Public Act 10-151 also authorizes the Commissioner to deposit unspent school readiness funds in a new "competitive district grant account," and use the funds to provide grants to competitive school districts to make slots available in preschool school readiness programs. The term "competitive school district" is

defined to include school districts with more than 9,000 students in certain low-income communities throughout the state.

#### **Tax Credit for Computer Donation to be Eliminated.**

Current law allows for a tax credit for the donation of certain new or used computers to a board of education. Effective July 1, 2010, Section 25 of Public Act 10-75 discontinues this tax credit as of the 2014 tax year.

#### **Definitional Changes to Laws Regarding Student Transportation Vehicles.**

Public Act 10-110 makes changes to a number of the laws regulating motor vehicles in Connecticut. Effective July 1, 2011, the term "student transportation vehicle" will be defined more narrowly as follows: "any motor vehicle other than a registered school bus used by a carrier for the transportation of students to or from school, school programs or school sponsored events." Student transportation vehicles and drivers of such vehicles are subject to certain regulatory requirements, as defined in state and federal law. In addition, effective July 1, 2011, the law eliminates the subcategory of, and corresponding operator's license endorsement for, an activity vehicle, which is currently defined as a vehicle used to transport students to school-sponsored events and activities but not to and from school. Finally, effective July 1, 2010, the law imposes specific penalties on school districts, school bus operators and other individuals and organizations that transport students for falsely reporting and/or documenting to the DMV issues relating to vehicle operation and maintenance.

#### **Insurance Reimbursement Payments for School-Based Health Centers.**

School-based health centers ("SBHCs") are free-standing medical clinics located within or on school grounds. Public Act 10-118 now requires each Connecticut licensed health insurer, at the request of a SBHC, to offer to contract with the center or centers to reimburse enrollees for covered health services. This offer must be made on terms and conditions similar to contracts offered to other health care service providers.

**“Teacup Raffles.”** Effective October 1, 2010, P.A. 10-132 increases, from \$100 to \$250, the maximum value of each prize that qualified organizations may award at teacup raffles. This law also authorizes organizations to offer prizes of gift certificates in addition to merchandise.

### **Emergency Response to Children Affected by**

**Recession.** Effective from passage, Public Act 10-133 creates new state agency responsibilities and reporting requirements aimed at providing assistance to families and children affected by the recession. Effective July 1, 2010, this new law requires the SDE to administer (within available appropriations) a child nutrition outreach program to increase participation in the federal School Breakfast Program, federal Summer Food Service Program and federal Child and Adult Care Food Program; and to increase federal reimbursement for such programs. Section 6. Under this new law, the SDE is also required to participate in efforts to seek full utilization of the federal McKinney-Vento Homeless Assistance Act to protect homeless students from dropping out of school and improve their access to higher education. Section 4.

### **“Sexting”**

Public Act 10-191 was passed in an effort to protect minors from being prosecuted for felony possession of child pornography in connection with “sexting,” which is generally understood to refer to the sending or posting of sexually suggestive text messages and images -- including nude or semi-nude photographs -- via cell phone or over the Internet. Under this new law, which goes into effect October 1, 2010, certain teenagers who would have previously faced felony child pornography charges will be able to assert a defense that they are instead guilty of a lesser misdemeanor offense in connection with the sending or receipt of images which constitute child pornography under state criminal statutes.

### **Shared Service Agreements**

Effective October 1, 2010, Public Act 10-167 allows two or more boards of education to establish, through written agreement, a shared services agreement.

Presumably, such agreements may be established with more flexibility than is permitted for cooperative arrangements authorized under Conn. Gen. Stat. § 10-158a. This new law also amends Conn. Gen. Stat. § 10-266m to establish a grant in fiscal year 2012 to any municipality whose board of education makes a cooperative arrangement with another board of education to provide school transportation for the 2010-2011 school year, provided such arrangement results in a savings as compared to transportation costs incurred by the boards of education during the fiscal year ending June 30, 2010.

### **“Green Industry” and Educational Programs**

Under Public Act 10-156, which becomes effective October 1, 2010, regional vocational-technical schools are required to collaborate with public institutions of higher education to develop agreements to share equipment required for students participating in certain programs relating to green jobs. In addition, this law requires institutions of higher education to publicize green technology initiatives in higher education and to collaborate in furthering these initiatives. Under this law, “green technology” is defined to mean technology that (A) promotes clean energy, renewable energy or energy efficiency, (B) reduces greenhouse gases or carbon emissions, or (C) involves the invention, design and application of chemical products and processes to eliminate the use and generation of hazardous substances.

## **Prior Legislation to Become Effective in 2010**

In case you have forgotten, certain legislative enactments in 2009 or prior become effective in 2010. To review these requirements, visit <http://www.shipmangoodwin.com/files/upload/LegislationEffective2010.pdf>