



2019 SESSION

In its 2019 regular and special sessions, 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. Links to the new legislation are provided in the electronic version of this publication located at <https://bit.ly/2MFndHP>. In addition, for more information about new legislation affecting employers in general, please see our Employment Legislation Summary at: <https://bit.ly/2MKjRTY>.

STATUTORY CHANGES AFFECTING STUDENTS:

Access to Education by Homeless Students

Public Act 19-179 increases protections afforded to homeless students and makes several changes to current laws concerning the appeal process afforded to school-age homeless students who are denied access to school accommodations to attend a local or regional public school.

The McKinney-Vento Act requires that homeless children and youth be provided with educational services that are comparable to those provided to the other students enrolled in the same school, including transportation services. Conn. Gen. Stat. §10-186 currently requires boards to notify a parent, guardian, emancipated minor or pupil 18 years of age or older of the right to request a hearing whenever a board denies access to school accommodations, including on the basis of residency. Effective July 1, 2019, Section 1 of the Act adds the term “unaccompanied youth” (defined by federal law as “a homeless child or youth not in the physical custody of a parent or guardian”) to the list of parties entitled to all of the rights relating to

school accommodation hearing procedures, including, for example, a right to request a hearing, and a right to appeal an adverse decision.

Regarding such hearings, Section 1 of the Act modifies the burden of proof in residency hearings where the child claims to be homeless. Generally, a party denied access to school accommodations based on residency has the burden of proof and must establish residency by a preponderance of the evidence (*i.e.*, it is more likely than not). Effective July 1, 2019, however, when “the party denied schooling is claiming that he or she is a homeless child or youth,” the board will have the burden of proving by a preponderance of the evidence that the student is not homeless in accordance with McKinney-Vento.

In addition, in the event a board of education (or impartial hearing officer) determines that a homeless child or youth is not entitled to school accommodations in the district, Section 1 of the Act also permits such homeless child or youth to remain in the district or be immediately enrolled in the school selected by the student in the school district in accordance with federal

law that permits a student to maintain enrollment pending final resolution of the dispute, including all available appeals. Additionally, boards will need to (1) provide such student or the parent or guardian a written explanation of the reasons for the denial that is in a manner and form understandable to them, (2) provide information regarding the right to appeal the decision of the denial of accommodations and (3) refer such student, parent or guardian to the district's homeless liaison. Moreover, a new provision requires that any homeless child or youth appealing a denial of school accommodations on the basis of residency be entitled to continue to attend school in the school district during the pendency of all available appeals, rather than just through an appeal at the State Board of Education ("State Board") level.

Section 2 of the Act additionally amends Conn. Gen. Stat. § 10-253 to reiterate that when a board of education denies a homeless child or youth school accommodations on the basis of residency, the homeless child or youth is entitled to a residency hearing pursuant to Conn. Gen. Stat. § 10-186.

Sale and Use of Cigarettes, Tobacco Products and E-Cigarettes

Effective October 1, 2019, **Public Act 19-13** makes significant changes to current law regarding the sale, use and distribution of cigarettes, other tobacco products and e-cigarettes. Most critically, it raises the legal age to purchase such products from eighteen to twenty-one and amends Conn. Gen. Stat. §§ 19a-342 and 19a-342a to prohibit smoking and the use of e-cigarettes within school buildings or on school property at all times, rather than only within a building while school is in session or during student activities. (Sections 17 and 18).

Application of Sunscreen Before Outdoor Activities

Currently, the law does not specifically address the use of sunscreen in school. Consequently, its application is generally subject to the same procedures as over-the-counter medication, which requires a written order from an authorized health care provider and written authorization from the student's parent or guardian for administration in school. **Public Act 19-60** provides that effective July 1, 2019, any student who is six years of age or older may possess and self-apply over-the-counter sunscreen while in school prior to engaging in any outdoor activity, if a student's parent or guardian submits a written authorization to the school nurse. The Act further permits boards of education to adopt policies and procedures to implement this new provision, and a student's self-application of sunscreen in school must be in accordance with such policies and procedures.

Physical Exercise and Undirected Play

In 2012, the legislature established a minimum requirement of 20 minutes daily physical exercise for students in grades K-5.

The following year, this requirement expanded from grades K-5 to all students enrolled in elementary school, and boards of education were required to develop a policy regarding school employees preventing a student from participating in the entire time devoted to physical exercise as a form of discipline.

This year, effective July 1, 2019 through **Public Act 19-173**, the legislature clarified the authority of local and regional boards to include additional

time—beyond the 20 minutes required for physical exercise—devoted to undirected play during the regular school day in elementary schools. Consistent with prior legislative action, the Act further requires that boards of education revise their policies by October 1, 2019 to address school employees preventing a student from participating in the entire time devoted to physical exercise or undirected play as a form of discipline.

Section 2 of the Act also establishes a task force to study the feasibility of including time devoted to undirected play during the regular school day in elementary schools and to report its findings to the Education Committee by January 1, 2020.

Special Education Transition Services for Children with Autism Spectrum Disorder

The federal Individuals with Disabilities Education Act (IDEA, 20 U.S.C. §§ 1400 et seq.) requires that the first IEP in effect when a child with a disability turns sixteen years of age (or earlier, when appropriate) include (1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education employment and where appropriate, independent living skills; and (2) the transition services, including courses of study, needed to assist the child in reaching those goals. 20 U.S.C. § 1414(d)(1)(A)(i)(VIII).

Public Act 19-49, effective July 1, 2019, requires IEPs for students diagnosed with autism spectrum disorder to contain such postsecondary goals and transition services beginning no later than the date on which the IEP takes effect for any such student who is at least fourteen years old. The Act requires such students' IEPs to be updated annually thereafter. Finally, the Act clarifies that despite the obligation for boards of education to begin transition services for students diagnosed with autism spectrum disorder at age fourteen, the Act does not require the Department of

Rehabilitation Services to lower the age of transitional services for children with disabilities from sixteen to fourteen.

Expulsions

Section 9 of **Public Act 19-91**, effective July 1, 2019, narrows the authority of boards of education to expel students in grades three through twelve, in a board's discretion, for conduct on school grounds or at a school-sponsored activity to situations in which the conduct violates a publicized policy of such board **and** is seriously disruptive of the educational process, or endangers persons or property. Previously, boards could expel students in grades three through twelve, in the board's discretion, if the conduct on school grounds or at a school-sponsored activity violated a publicized policy of the board **or** was seriously disruptive of the educational process or endangered persons or property. The Act does not modify the standards for expulsion for conduct off school grounds or for mandatory expulsions.

New Curriculum and Course Requirements for African-American and Black Studies and Puerto Rican and Latino Studies

Sections 1 and 2 of **Public Act 19-12** provide that, for the school year commencing July 1, 2021, public schools must include African-American and black studies and Puerto Rican and Latino studies as part of the program of instruction for the school district. In accordance with the Act, the State Board must make available curriculum materials for African-American and black studies and Puerto Rican and Latino studies, and districts may use those materials or other materials in implementing the curriculum. The Act also permits districts to accept gifts, grants, and donations designed for the development and implementation of

the African-American and black studies and Puerto Rican and Latino studies curriculum required by the Act.

In addition to the inclusion of African-American and black studies and Puerto Rican and Latino studies in each district's program of instruction, Sections 3 and 4 of the Act require the State Education Resource Center ("SERC") to develop a one-credit black and Latino studies course to be offered at the high school level. By January 1, 2021, the State Board must review and approve the black and Latino studies course developed by SERC, provided the State Board determines that the course meets criteria set forth in the law, and must submit a course description to the General Assembly by January 15, 2021. School districts *may* offer this course in grades nine through twelve for the 2021-2022 school year, but *must* offer the course in those grades for the 2022-2023 school year and each school year thereafter. For the school years commencing July 1, 2022 to July 1, 2024, the State Department of Education ("SDE") will conduct an annual audit to ensure that the approved black and Latino studies course is being offered by each school district and will submit a report on the audit to the General Assembly.

Computer Science Instruction

Section 1 of **Public Act 19-128** amends various statutes and generally highlights the legislature's desire to strengthen computer science instruction in public schools. In particular, Section 1 of the Act, effective July 1, 2019, broadens the current curricular requirement of "computer programming," specifically, to "computer science," generally, which may include computer programming. In addition, Section 11 provides that, on or after July 1, 2020, consideration must be given to career and academic choices in computer science, science, technology, engineering, and mathematics in student success plans.

Firearm Safety Programs

Previously, Conn. Gen. Stat. § 10-18c permitted local and regional boards of education to offer firearm safety programs to students in grades K-8. Effective July 1, 2019, Section 5 of **Public Act 19-5** expands the grades to which the program may be made available by permitting boards of education to offer firearm safety programs to grades K-12. The Act retains a curricular opt-out whereby parents and guardians may request that their child be exempted from the program or any portion thereof by providing written notification to the school, and schools must provide an opportunity for other academic work during that time. Section 4 of the Act specifies that, subject to available appropriations, the State Board must develop guides to aid boards of education in developing such firearm safety programs for students in grades K-12.

Promoting Careers in Manufacturing

Section 1 of **Public Act 19-58**, effective July 1, 2019, confirms that guidance counselors and school counselors may provide materials concerning manufacturing, military, and law enforcement careers when discussing career options with students.

Section 2 of the Act, effective July 1, 2019, requires that each board of education include goals for career placement for students who do not pursue an advanced degree immediately after graduation in such board's statement of educational goals for the district.

Section 3, also effective July 1, 2019, requires that each student success plan, beginning in grade six, provide evidence of career exploration in each grade including, but not limited to, careers in manufacturing. SDE will revise and issue guidance regarding these changes to student success plans.

Lastly, the Act establishes a study relating to the demand for career and technical education teachers in the state's high schools and community colleges. The report is due February 1, 2020.

Working Papers

Current law requires that the Superintendent, or designee, of any local or regional board of education provide a "certificate of age" as verification of a minor's legal age for purposes of employment in certain occupations. Effective July 1, 2019, Section 97 of **Public Act 19-117** clarifies that such requirements do not apply to individuals desiring to employ a minor through a youth development program of a regional workforce development board.

STATUTORY CHANGES AFFECTING SCHOOL DISTRICT OPERATION:

Employee Background Checks & Fingerprinting

Public Act 19-91, effective July 1, 2019, overhauls the employee background checks statute. The Act adds a definition of "eligible school operator," which includes local and regional boards of education, the Technical Education and Career System, the governing council of a state or local charter school, a school developed through a statutorily permitted cooperative arrangement, and a government-operated interdistrict magnet school. In addition to the existing background check requirements for eligible school operators, the Act adds a requirement that eligible school operators require applicants to state, *in writing*, whether such applicant has ever been convicted of a crime or whether criminal charges are pending against the applicant at the time of the application. If charges are

pending, the applicant must state the charges and the court in which such charges are pending.

The Act continues the option for an eligible school operator to request a regional educational service center ("RESC") to arrange for the fingerprinting of any person required to submit to state and national criminal history records checks. The State Police Bureau of Identification will then provide the results of such checks directly to the eligible school operator.

Section 2 of the Act adds another new term, "nongovernmental school operator," which means an operator of an interdistrict magnet school that: is a third-party, not-for-profit corporation approved by the Commissioner of Education; the governing council of a state or local charter school; an endowed or incorporated academy approved by the State Board; a special education facility approved by the State Board; or the supervisory agent of a nonpublic school. [Note: Governing councils of a state or local charter school are included in both the definitions of eligible school operator and nongovernmental school operator.] Such nongovernmental school operator must conduct the same employee background checks that are required of public schools. These requirements include, among other things, requiring each applicant to:

- (1) State in writing whether such applicant has ever been convicted of a crime or whether criminal charges are pending against such applicant at the time of the application and, if charges are pending, to state the charges and the court in which charges are pending;
- (2) Submit to a records check of the Department of Children and Families ("DCF") child abuse and neglect registry before being hired; and
- (3) Submit to state and national criminal history records checks within thirty days from the date of employment, which checks **must** be conducted

through the State Police in accordance with Conn. Gen. Stat. § 29-17a.

A nongovernmental school operator may similarly request for a RESC to arrange for the fingerprinting of any person required to submit to state and national criminal history records checks.

As is the case for public schools, the Act provides that a state and national criminal records check completed for a substitute teacher within one year prior to employment with a nongovernmental school operator satisfies the background check requirements.

A nongovernmental school operator may not, however, require substitute teachers to submit to state and national criminal history records checks if they are “continuously employed,” which is defined as “employ[ment] at least one day of each school year by such nongovernmental school operator,” as long as substitute teachers are subjected to checks every five years. Furthermore, the background check provisions do not apply to (1) a student employed by the nongovernmental school operator that operates a school which the student attends, or (2) a person employed by a nongovernmental school operator as a teacher for a noncredit adult class or adult education activity who is not required to hold a teaching certificate.

Section 3 mandates that eligible school operators and nongovernmental school operators require students enrolled in teacher preparation programs, and completing his or her student teaching experience with such eligible school operator or nongovernmental school operator, to (1) state any convictions or pending charges in writing, and if charges are pending, the charges and court in which the charges are pending, (2) submit to a DCF records check, and (3) submit to state and national criminal history records checks. Students in teacher preparation programs must submit

to the state and national records checks within sixty days from the date the student begins to perform the student teaching experience. Notably, the Department of Emergency Services and Public Protection must waive the fee for a criminal history records check for student teachers.

Section 4 expressly provides that eligible school operators and nongovernmental school operators also **may** conduct the same above-mentioned background checks for non-employees who will perform a service involving direct contact with students.

Section 5 requires, among other things, the State Board to submit periodically to the State Police Bureau of Identification a database providing identification information of each applicant to the State Board seeking an initial certificate, authorization, or permit. The State Police Bureau of Identification shall then notify the State Board of any applicant who has a criminal conviction, and the State Board may deny an application pursuant to Conn. Gen. Stat. § 10-145b(i). The State Board must also submit a database providing the identification of each person who holds a certificate, authorization or permit. Upon information that any such person has a criminal conviction, the State Board may revoke that person’s certificate, authorization, or permit.

Importantly, the Act clarifies, in various sections, that recipients of national criminal history records check information shall not disseminate further the results of such checks.

Sexual Harassment

Public Acts 19-16 and 19-93, effective October 1, 2019, make various changes concerning sexual harassment, sexual assault, discrimination complaints filed with the Commission on Human Rights and

Opportunities (“CHRO”), and related matters. Among other things, the new Acts expand requirements for employers to train employees on sexual harassment laws, extend the time to file a CHRO complaint alleging employer discrimination, including sexual harassment, and allow courts to order punitive damages in discrimination cases that the CHRO has released from its jurisdiction.

Current law requires employers with at least 50 employees to provide their supervisory employees with two hours of training on federal and state sexual harassment laws and remedies available to victims. Section 1 of Public Act 19-16 expands this requirement to cover (1) employers of **any** size and (2) **non-supervisory employees** for employers with at least three employees. The Act requires the new training to occur within one year of October 1, 2019, except that any employer who provided the bill’s training to any such employees after October 1, 2018, is not required to provide it a second time.

The Act requires the CHRO to develop and make available to employers a free, online training and education video or other interactive method that fulfills the Act’s training requirements, although there is no deadline associated with this mandate. Employers having three or more employees, must provide the required training to employees hired on or after October 1, 2019 within six months of hire if the CHRO has developed and made available its online training materials. Public Act 19-16 does not address the scenario for training requirements for employees hired on or after October 1, 2019 if the CHRO does not make the training materials available to be used within six months of an employee’s hire, but presumably employers would need to ensure those new employees at least receive the requisite training by October 1, 2020 in the absence of such CHRO materials consistent with the requirement for existing employees.

Under the Act, employers required to provide this training must provide supplemental training at least every 10 years to update employees on the content of the training and education. As amended by Section 5 of Public Act 19-93, the Act subjects employers to a fine of up to \$750 if they fail to provide the training and education as required. In addition, the new Act additionally classifies this inaction as a discriminatory practice. By expanding the definition of discriminatory practice, the Act allows individuals aggrieved by any such violation of the training requirements, or CHRO itself, to file a complaint with CHRO alleging discrimination.

Existing law requires employers with three or more employees to post in a prominent and accessible place a notice stating that sexual harassment is illegal and the remedies available to victims. Section 1 of Public Act 19-16 requires these employers to also send a copy of this information to employees by email within three months of their hire if the (1) employer has provided an email account to the employee or (2) employee has provided the employer with an email address. The email’s subject line must be similar to “Sexual Harassment Policy.” If an employer has not provided email accounts to employees, it must post the information on its website, if it has one. As outlined above, employers are subject to a fine of up to \$750 for failure to comply with these requirements.

The CHRO must develop and include on its website a link about the illegality of sexual harassment and the remedies available to victims. An employer can comply with the requirement above by providing this link to employees by email, text message or in writing.

Section 8 of Public Act 19-16, as amended by Section 5 of Public Act 19-93, effective October 1, 2019, provides that during the twelve-month period following the date on which a complaint was filed

against the employer, or if the executive director of the CHRO reasonably believes that an employer is in violation of the training and information posting requirements described above, the CHRO's executive director will now have the authority to assign designated representatives to enter an employer's business location, during normal business hours, to ensure compliance with these requirements. The designated representatives may also examine the employers' records, policies, procedures, postings, and sexual harassment training materials to ensure compliance with these posting requirements and the sexual harassment training requirements described above. Fortunately, the Act requires these designated representatives, when carrying out these duties, to ensure they do not unduly disrupt the employers' business operations.

Lastly, Section 4 of Public Act 19-16, effective October 1, 2019 provides that if an employer takes immediate corrective action in response to an employee's claim of sexual harassment, such corrective action may not modify the conditions of employment of the employee making the claim unless such employee agrees, ***in writing***, to any modification in the conditions of employment. As defined in the Act, "corrective action" includes, but is not limited to, employee relocation, assigning an employee to a different work schedule, or other substantive changes to an employee's terms and conditions of employment. Section 8 of Public Act 19-96 further provides, however, that notwithstanding an employer's failure to obtain such written agreement from the employee regarding a modification in the conditions of employment, the CHRO may find that corrective action taken by an employer was reasonable and not of detriment to the complainant based on the evidence presented to the CHRO.

Safe School Climate

Public Act 19-166 makes several changes to current laws related to bullying and safe school climate. Section 1 of the Act establishes a statewide "social and emotional learning and school climate advisory collaborative" to, among other things, collect information relative to school climate improvement and to identify best practices for promoting positive school climates. Key roles of the advisory collaborative, among others, as identified by Sections 1 and 2 of the Act, are to (1) develop a model positive school climate policy by January 1, 2020, (2) develop an assessment for screening students in grades three to twelve for suicide risk, (3) develop a plain language explanation of the rights and remedies available to parents and guardians under the Conn. Gen. Stat. § 10-4b complaint process and provide it to each local and regional board of education, and (4) develop a biennial statewide school climate survey. Key dates related to the work of the advisory collaborative and corresponding responsibilities of boards of education include:

- January 1, 2020: The advisory collaborative must develop the model positive school climate policy;
- July 1, 2020: The advisory collaborative must submit the screening assessment to determine risk of suicide and recommendations for implementation in public schools;
- January 1, 2021: The advisory collaborative must provide the plain language explanation of the rights and remedies available through the Conn. Gen. Stat. § 10-4b complaint process to each board of education;
- January 1, 2021 and annually thereafter: The advisory collaborative must submit a report to the General Assembly regarding the efforts of the advisory collaborative concerning improving school climate, the need for technical assistance

for school districts, best practices, directing resources for state and local initiatives and any recommendations;

- June 30, 2021: Each board of education must publish on its website the plain language explanation of the rights and remedies available under the Conn. Gen. Stat. § 10-4b complaint process;
- July 1, 2021: The advisory collaborative must develop the biennial statewide school climate survey designed to obtain confidential information from school employees and parents and guardians concerning impressions of school climate; and
- August 1, 2021: SDE must publish the model positive school climate policy and the biennial statewide school climate survey on the SDE website.

In addition, Section 3, effective July 1, 2021, makes substantial revisions to Conn. Gen. Stat. § 10-222d, the statute governing safe school climate plans and public schools' bullying policies and obligations.

Section 3 redefines "school climate" to mean "the quality and character of school life based on patterns of students', parents' and guardians' and school employees' experiences of school life, including, but not limited to, norms, goals, values, interpersonal relationships, teaching and learning practices and organizational structures."

Section 3 also creates three new statutory definitions:

- (1) "Positive school climate" means a school climate in which
 - (a) the norms, values, expectations and beliefs that support feelings of social, emotional and physical safety are promoted,
 - (b) students, parents and guardians of students and school employees feel engaged and

respected and work together to develop and contribute to a shared school vision,

- (c) educators model and nurture attitudes that emphasize the benefits and satisfaction gained from learning, and
 - (d) each person feels comfortable contributing to the operation of the school and care of the physical environment of the school
- (2) "Emotional intelligence" means the ability to
 - (a) perceive, recognize and understand emotions in oneself or others,
 - (b) use emotions to facilitate cognitive activities, including, but not limited to, reasoning, problem solving and interpersonal communication,
 - (c) understand and identify emotions, and
 - (d) manage emotions in oneself and others; and
 - (3) "Social and emotional learning" means the process through which children and adults achieve emotional intelligence through the competencies of self-awareness, self-management, social awareness, relationship skills and responsible decision-making.

Most significantly, however, Section 3 of the Act redefines the term "bullying." Currently, bullying is defined as:

- (A) the repeated use by one or more students of a written, oral, or electronic communication, such as cyberbullying, directed at or referring to another student attending school in the same school district or (B) a physical act or gesture by one or more students repeatedly directed at another student attending school in the same district, that: (i) causes physical or emotional harm to such student or damage to such student's property, (ii) places such student in reasonable fear

of harm to himself or herself, or of damage to his or her property, (iii) creates a hostile environment at school for such student, (iv) infringes on the rights of such student at school, or (v) substantially disrupts the education process or the orderly operation of a school.

Effective July 1, 2021, the Act defines “bullying” to mean

An act that is direct or indirect and severe, persistent or pervasive, which (A) causes physical or emotional harm to an individual, (B) places an individual in reasonable fear of physical or emotional harm, or (C) infringes on the rights or opportunities of an individual at school.

The revised definition of “bullying,” however, retains the current statutory language confirming that bullying includes, but need not be limited to:

a written, oral or electronic communication or physical act or gesture based on any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status, academic status, physical appearance, or mental, physical, developmental or sensory disability, or by association with an individual or group who has or is perceived to have one or more of such characteristics.

Notably, the Act removes the explicit requirements within the current definition of bullying that both the alleged perpetrator and alleged victim be students attending school in the same school district. Additionally, the Act removes the current requirement that the Act be “repetitive” in nature and instead establishes a new, hostile environment harassment-like standard by requiring that the Act be “severe, persistent or pervasive.”

Section 3 also amends the requirements for safe school climate plans required for each board of education. Currently, safe school climate plans must require a school to notify the parent or guardian of both students who commit verified acts of bullying and students who were victims of such acts within forty-eight hours after completing its bullying investigation. Section 3 expands this requirement to specify that such notice to parents or guardians must include (a) notice of the results of the bullying investigation and (b) verbal and email (if the parent’s or guardian’s email address is known) notice to the parents or guardians that they may refer to the plain language explanation of the rights and remedies available under the Conn. Gen. Stat. § 10-4b complaint process published on the district’s website.

Again, as noted above, the effective date for the new and revised statutory terms and new requirements for safe school climate plans is July 1, 2021. Therefore, districts are not required to revise their safe school climate plans or bullying policies immediately.

Finally, Section 5 of the Act, effective July 1, 2019, requires that each local and regional board of education, in consultation with SDE and the advisory collaborative, provide on the Department’s website training materials to school administrators regarding the prevention of and intervention in discrimination against and targeted harassment of students based on such students’ (1) actual or perceived differentiating characteristics, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status, academic status, physical appearance or mental, physical developmental or sensory disability, or (2) association with individuals or groups who have or are perceived to have one or more of such characteristics.

Public Act 19-166 raises numerous questions about how boards of education will implement these new

requirements as they become effective. This is particularly true with respect to the new definition of bullying that seems to lack any clarity with respect to the limits of school districts' obligations or authority to address conduct by individuals who may or may not be students, let alone have a connection to the district.

Importantly, as referenced above, the statutory definitions and many of the other school district obligations (with the exception of the requirement for training materials regarding discrimination required by Section 5) are not effective for the 2019-2020 school year. Based on the work of the advisory collaborative and other factors, it is possible that the General Assembly will further amend these provisions before they take effect. Nevertheless, school and district leaders should be aware of and appropriately prepare for the requirements that, at least at this point, will become effective in the near future.

Firm Graduation Date

Section 10-16/ of the Connecticut General Statutes had permitted boards of education to set a firm graduation date that fell no earlier than the 185th day noted in the school calendar adopted for that year, but also permitted boards to set a firm graduation date on or after April 1 that, at the time of its establishment, provided for at least 180 days of school. Effective July 1, 2019, **Public Act 19-195** amends Conn. Gen. Stat. § 10-16/ to permit boards to establish a firm graduation date at any time during the school year, provided that the date chosen falls no earlier than the 180th day noted in the school calendar adopted for that year.

Fast Track Tenure in Priority School Districts

Since 2010, a certified teacher or administrator employed in a priority school district could attain

tenure after 10 months of employment in the priority school district if the individual previously attained tenure with another local or regional board of education in Connecticut or another state. Effective July 1, 2019, Section 2 of **Public Act 19-139** repeals such expedited tenure provision. As a result, teachers and administrators employed in priority school districts will be subject to the same tenure provisions as other certified staff.

School Security and Safety

Since 2014, the Department of Emergency Services and Public Protection ("DESPP") has been required to develop school security and safety plan standards in consultation with SDE. Beginning with the 2014-2015 school year, boards of education have been required to develop and update school security and safety plans for the district and/or each school within the district.

Section 1 of **Public Act 19-52** requires DESPP, in consultation with SDE, to reevaluate and update the school security and safety plan standards by January 1, 2020, and every three years thereafter. SDE is further required to distribute such standards to all public schools within the state. As discussed below, **Public Act 19-184** separately requires DESPP to revise the school security and safety plan standards by October 1, 2019 to include provisions relating to emergency communication plans for students with hearing impairments.

In addition, Section 2 of the Act requires DESPP to seek ways to simplify the documentation required by boards of education to comply with school safety and security reporting requirements. Such required documentation currently includes the school's security and safety plan, as well as annual reports regarding fire and crisis response drills. By January 1, 2020, DESPP must submit a report identifying the key components

of such documentation and outlining how the department will simplify the required documentation. DESPP will then implement the new requirements for documentation not later than July 1, 2020. A similar provision, with the same timelines, requires DESPP and the School Safety Infrastructure Council to seek ways to simplify the documentation required for applicants of the school security infrastructure competitive grant program.

Lastly, Section 3 of the Act, effective October 1, 2019, requires DESPP to develop criteria to identify qualified school security consultants operating in Connecticut to include on its registry of such consultants, which, under current law, must be updated at least annually and must be publicly available.

School Police and Federal Immigration Authorities

Public Act 19-20, effective October 1, 2019, revises the responsibilities of state law enforcement and defines such responsibilities for school police or security departments with respect to federal immigration authorities, including the United States Immigrations and Customs Enforcement and the United States Customs and Border Protection. For the purposes of this Act, school police or security departments mean any police or security department of the constituent units of the state system of higher education, a public school or a local or regional school district.

Specifically, Section (b)(1)(A) provides that no school police or security department within a public school is permitted to arrest or detain an individual pursuant to a civil immigration detainer (a request from a federal immigration authority to detain or facilitate the arrest of an individual) unless the detainer is accompanied by a warrant issued or signed by a judicial officer.

In addition, Section (b)(1)(B) prohibits public school police or security departments from expending or using time, money, facilities, property, equipment, personnel or other resources to communicate with a federal immigration authority regarding the custody status or release of an individual targeted by a civil immigration detainer.

Furthermore, public school police or security departments may not arrest or detain an individual based on an administrative warrant (which is a warrant issued by a federal immigration enforcement agent, rather than by a judicial officer); give a federal immigration authority access to interview an individual who is in the custody of a law enforcement agency; or perform any function of a federal immigration authority.

Operations Relating to Special Education and Students with Disabilities

Public Act 19-184 makes several changes to current laws related to the provision of special education.

Section 1 of the Act, effective July 1, 2019, prohibits administrators from disciplining or retaliating against any staff members for communications about student programming at planning and placement team (“PPT”) meetings. Specifically, the Act provides that, “no local or regional board of education shall discipline, suspend, terminate, or otherwise punish any member of a [PPT] who discusses or makes recommendations concerning the provision of special education and related services for a child during a [PPT] meeting for such child.”

Section 3, also effective July 1, 2019, requires that the Section 504 plan for a student who is deaf or hard of hearing must include a language and communication plan. Language and communications plans for

students with Individualized Education Programs who are deaf or hard of hearing have been required since 2012. In addition, Section 3 of the Act requires that the language and communication plan for a student with an IEP or Section 504 plan must address an *emergency communication plan* that includes procedures for alerting the child of an emergency situation and ensuring that the child's specific needs are met during the emergency situation.

Section 4 requires the DESPP, in consultation with SDE, to revise the school security and safety plan standards to include provisions relating to emergency communication plans by October 1, 2019. In addition, by January 1, 2020, districts must revise their school security and safety plans to include provisions relating to emergency communication plans.

Section 5 similarly requires the School Safety Infrastructure Council to include provisions relating to emergency communication plans in the criteria for school building projects by October 1, 2019.

Section 7, effective July 1, 2019, adds a requirement to electronically notify parents and guardians upon the identification of a student as gifted and talented. The notice must include (1) an explanation of how such student was identified as gifted and talented, and (2) the contact information for (A) the employee at the school responsible for gifted and talented students, or, if there is no such employee, the special education director; (B) the employee at SDE designated as responsible for providing such information; and (C) any associations in the state that provide support to gifted and talented students.

Section 8, effective July 1, 2019, explicitly provides that a local educational agency ("LEA") in which a student resides must pay the costs of services for students with Section 504 plans who attend interdistrict magnet

schools in the same manner as LEAs pay for special education, except such costs are not eligible for excess cost grants. Mirroring the special education provisions, the Act further indicates that magnet schools are responsible for ensuring full-time students with Section 504 plans receive the services in their Section 504 plans.

Section 10, effective July 1, 2019, provides that any private provider of special education services that has entered into a contract with an LEA must inform the LEA of: (1) all complaints received against such private provider concerning the mistreatment of students receiving special education services from the provider; (2) the resolution or outcome of such complaints and any corrective action taken as a result of such complaints; and (3) any programming or service changes for students under the jurisdiction of the LEA as a result of a complaint. Lastly, the Act creates two working groups and requires one study. The first working group is charged with studying issues related to the provision of special education during the period after birth-to-three and before kindergarten. The second working group, established within SDE, will develop language assessments for students identified as deaf, hard of hearing, or both blind or visually impaired and deaf. Third, the IEP Advisory Council will conduct a study concerning the authorization of private therapists to provide special education and related services directly to students at school during the regular school day.

Guidelines for a Comprehensive School Counselor Program

Public Act 19-63 requires the State Board, in collaboration with a statewide association that represents school counselors, to adopt guidelines for a comprehensive school counseling program by July 1, 2020. The guidelines are intended to ensure that all students have access to a comprehensive school

counseling program that provides academic, social-emotional, and post-secondary and career readiness programming by a certified school counselor with adequate training. The State Board will publish the guidelines on SDE's website.

Domestic Violence Services and Resources

Public Act 19-146 requires the Judicial Branch's Office of Victim Services to compile information on domestic violence victim services and resources by December 1, 2019 and to provide that information to SDE. SDE, in turn, is then required to publish the information on its website by January 1, 2020 and to publish any necessary revisions to the information. Beginning with the 2020-2021 school year, and each school year thereafter, SDE must disseminate this information to local and regional boards of education on an annual basis. Correspondingly, boards of education will be required to provide such information to (1) any student or parent or guardian of a student who expresses to a school employee that such student, parent or guardian or a person residing with such student or parent or guardian does not feel safe at home due to domestic violence, and to (2) a parent or guardian of a student who authorizes the transfer of such student's educational records to another school.

Paid Family and Medical Leave

Public Act 19-25 creates the Family and Medical Leave Insurance ("FMLI") program to provide wage replacement benefits to certain employees taking leave for reasons allowed under the state's Family and Medical Leave Act ("FMLA"), which the Act also amends, or the family violence leave law. It will provide employees with up to twelve weeks of FMLI benefits over a twelve-month period. Also available will be two additional weeks of benefits for a serious

health condition that results in incapacitation during pregnancy.

With respect to public schools, the Act excludes a local or regional board of education from the definition of "employer." However, certain "covered public employees" will be eligible for these benefits. "Covered public employee" includes a member of a collective bargaining unit whose union negotiates into the FMLI program under the Municipal Employee Relations Act and the Teacher Negotiation Act. If a board of education negotiates inclusion in the FMLI program for members of a collective bargaining unit, "covered public employee" also means an individual who is employed by such board of education and who is not in a bargaining unit.

Under the Act, benefit-eligible employees will be those "covered public employees," who earned at least \$2,325 during their highest earning quarter within their base period (the first four of the five most recently completed quarters). In addition, the employees must have worked for their employer in the previous 12 weeks.

The program is funded by employee contributions, with collections beginning in January 2021. The Paid Family and Medical Leave Insurance Authority, which the Act creates, must annually determine the employee contribution rate, which cannot exceed 0.5%. The Act also caps the amount of an employee's earnings subject to contributions at the same amount of earnings subject to Social Security taxes (currently \$132,900). A covered employee's weekly benefits under the program are generally calculated as 95% of his or her average weekly wage, up to 40 times the state minimum wage, plus 60% of his or her average weekly wage that exceeds 40 times the minimum wage, with total benefits capped at 60 times the minimum wage.

Alternatively, employers can provide benefits through a private plan, which must provide their employees with at least the same level of benefits under the same conditions and employee costs as the FMLI program. Private plans must meet certain requirements for approval, and employees covered by an employer's private plan do not have to contribute to the FMLI program.

Duration of DCF Investigations

Section 2 of **Public Act 19-120**, effective July 1, 2019, modifies the deadlines for DCF child abuse and neglect investigations from forty-five calendar days to thirty-three business days.

Instruction in Culturally Responsive Pedagogy

Public Act 19-100, effective July 1, 2019, expands the required professional development training required by Conn. Gen. Stat. § 10-148a and in-service training required by Conn. Gen. Stat. § 10-220a to include culturally responsive pedagogy and practice.

MISCELLANEOUS STATUTORY CHANGES AFFECTING SCHOOLS:

Minimum Budget Requirement

Section 271 of **Public Act 19-117**, effective July 1, 2019, extends the requirements of the Minimum Budget Requirement ("MBR") to the fiscal years ending June 30, 2020 and June 30, 2021. This section of the Act also revises the existing MBR rule which allows towns to reduce their educational appropriations below the level necessary for MBR compliance

when the school district experiences a decline in its resident student population. Now, a town may reduce its budgeted appropriation for education if the school district experienced a decline in its resident student population in any of the prior five fiscal years, provided that the town can only use each year-to-year decline as the basis for a reduction in its educational appropriations once. Such reductions in appropriations based on declining student enrollment are also no longer subject to a statutory cap. The reauthorized MBR statute maintains each of the other existing categories of allowances for reductions in educational appropriations, but it adds clarifying examples of the types of cost savings measures that will be considered for approval by the Commissioner of Education.

Section 288 of Public Act 19-117, effective July 1, 2019, alters the penalty for MBR violations during the fiscal year ending June 30, 2019. Section 10-262i of the Connecticut General Statutes requires towns who violate the MBR to forfeit two dollars for every dollar of their funding shortfall. The statute requires the forfeiture of such amount by the town during the second year after the violation. This section of Public Act 19-117 halves the penalty for violations which occurred during the fiscal year ending June 30, 2019. It also allows for towns who committed violations during the fiscal year which ended June 30, 2019 to avoid a penalty altogether by appropriating additional funding to the board of education in the amount of the shortfall during the current fiscal year.

Finally, Section 250 of Public Act 19-117, effective July 1, 2019, requires SDE to compile an MBR calculation worksheet for each board of education. SDE must provide the worksheet the appropriate board of education and make it available on SDE's website.

Nonlapsing Accounts for Unexpended Funds

Section 285 of **Public Act 19-117**, effective July 1, 2019, increases the permissible amount of unexpended funds from the prior fiscal year's budgeted appropriation for education that a town may deposit into a nonlapsing account from one percent (1%) to two percent (2%) of the total budgeted appropriation for education for that prior fiscal year. The Act now clarifies that expenditures from such accounts may only be made for educational purposes and must be authorized by the local board of education of the town.

Quarterly Reports on Expenditures and Revenues

Effective July 1, 2019, Section 290 of **Public Act 19-117** establishes a new requirement that local and regional boards of education must, on a quarterly basis, post the board's current and projected expenditures and revenues on its website and submit a copy of such information to the legislative body of the municipality (or board of selectmen). This requirement is effective for the 2019-2020 fiscal year.

Municipal and Regional School District Audits

Each municipality and regional school district must have its financial statements audited at least once every year by an independent auditor. The statutes expressly authorize the Office of Policy and Management ("OPM") to review those audit reports on a biennial basis and to report any evidence of fraud or embezzlement to the State's Attorney's Office. OPM is also required to prepare a report and submit it to the municipality or regional school district whenever review

of the audit results in (1) findings of unsound or irregular financial practice or (2) if the audit was not conducted in compliance with statutory requirements. The report must include detailed findings and recommendations for corrective action. Effective July 1, 2019, Section 1 of **Public Act 19-193** will now require that upon receipt of such a report by the chief executive officer of a municipality or the superintendent of schools for the regional school district, such individual shall attest to and explain the secretary's findings and submit a written plan for corrective action to OPM.

MARB Review of Collective Bargaining Agreements

Current law expressly authorizes the Municipal Accountability Review Board ("MARB") to have the same opportunity and authority to approve or reject municipal or board of education collective bargaining agreements for designated tier III municipalities as are provided to the legislative body of the municipality. Effective July 1, 2019, Section 5 of **Public Act 19-193** clarifies that this opportunity and authority for MARB to review agreements reached by boards of education in tier III municipalities referred to MARB on or after January 1, 2018 includes agreements with non-certified bargaining units that do not otherwise require municipal approval. The board of education must submit such negotiated agreements to MARB within fourteen days of reaching an agreement and MARB will have thirty days to act upon the agreement.

Minority Teacher Recruitment and Retention

Public Act 19-74 contains a number of provisions aimed at increasing minority teacher recruitment and retention. Section 1 of Public Act 19-74 requires that for the 2020-2021 school year, and each year thereafter, the Minority Teacher Recruitment Policy

Oversight Council must develop and implement strategies and use existing resources to ensure at least 250 new minority teachers and administrators, of which at least 30% are men, are hired by boards of education each year.

Changes effective July 1, 2019 include the following:

Section 2 requires the Commissioner of Education to establish educator certification reciprocity agreements with education officials for each state. If the commissioner is unable to establish a reciprocity agreement, the commissioner may establish or join an interstate agreement.

Section 3 permits a satisfactory, rather than an excellent, score to be substituted for a subject area assessment for certification requirements for a subject shortage area.

Section 4 extends the teacher mortgage assistance program to certified teachers who graduated from public high school in an educational reform district, an historically black college or university, or a Hispanic-serving institution.

Section 5 creates an additional category under Conn. Gen. Stat. § 10-183v(b) for the reemployment of retired teachers receiving retirement benefits for up to one full school year for such retired teachers who graduated from the above-listed schools.

Section 6 revises certain teacher certification requirements such that the State Board shall issue an initial educator certificate to any person who holds a bachelor's degree or an advanced degree from an institution of higher education that is regionally accredited or has received an equivalent accreditation. Section 7 removes the requirement to complete subject matter assessments after the expiration of a valid teaching certificate in certain instances. In particular,

subject matter assessments are not required if the person either (A) successfully completed at least three years of teaching experience under a valid teaching certificate in the past ten years in such endorsement area, or (B) holds a master's degree or higher in the subject area for which such person is seeking renewal or advancement. Similarly, any person who has previously achieved a satisfactory evaluation on an approved subject area assessment for a teaching certificate that has expired will not be required to take the current subject matter assessment, provided the Commissioner of Education determines the requirements are at least equivalent.

In addition, Section 262 of **Public Act 19-117**, effective July 1, 2019, creates a minority educator loan reimbursement grant for the 2019-2020 fiscal year ending June 30, 2020, and for each fiscal year thereafter, through the Office of Higher Education. This grant is available to minority educators who hold a professional certification and are employed as certified staff by a board of education. As clarified by, Section 263 of Public Act 19-117, this loan reimbursement grant will be a part of the larger minority teacher incentive program established under Conn. Gen. Stat. § 10-168a and replaces a previous loan reimbursement program.

Pilot Program for Advanced Manufacturing Certificate

Public Act 19-103 requires that the Board of Regents for Higher Education ("BOR") create a pilot program by January 1, 2020 that establishes an advanced manufacturing certificate program in one public high school in Connecticut per year. The Act further requires the BOR to (1) develop an application process and selection criteria for interested local and regional boards of education and (2) explore funding for the program. The criteria developed must give priority to (a)

areas of the state where there is a need for a workforce trained in advanced manufacturing, (b) economically distressed municipalities, (c) areas where residents do not have access to such programs within close proximity to their homes and (d) areas of the state where there is sufficient space in a public high school to operate such programs. Provided that the local or regional board of education selected to participate in the pilot program agrees, the Act additionally permits the BOR to collaborate with independent institutions of higher education that offer a manufacturing certificate program to operate the program at the local public high school.

Local and regional boards of education may apply to participate separately or jointly with other boards of education in their surrounding areas. Those wishing to participate in the pilot program will need to apply in a manner and form prescribed by the BOR and, if selected, will be required to enter into a memorandum of understanding with the BOR with concerning details of the program.

Beginning in the fall semester of 2020, each advanced manufacturing certificate program must enroll:

- (1) public high school students in grades eleven and twelve with the goal of simultaneously earning high school and college credits and an advanced manufacturing certificate while enrolled in high school, and
- (2) adults (upon approval by the local or regional board of education) to take classes at the high school location during evening and weekend hours with the goal of earning an advanced manufacturing certificate.

The BOR must evaluate the operation and effectiveness of the pilot program and provide a report and recommendations to the General Assembly by January 1, 2021.

Task Force to Analyze Laws Governing Dyslexia Instruction and Training

Over the past several years, the legislature has passed various statutes concerning dyslexia training and instruction. For example, in 2015, Public Act 15-97 added the detection and recognition of dyslexia and evidence-based structured literacy interventions to the list of required topics addressed in required in-service training programs for certified staff. In 2016, Public Act 16-92 provided that any person seeking a remedial reading, remedial language arts or reading consultant endorsement must have completed a program of study in the diagnosis and remediation of reading that includes instruction and practicum hours in the detection of, and interventions for, students with dyslexia. In 2017, Public Act 17-3 added candidates for a comprehensive special education or integrated early childhood and special education endorsement to the list of those required to complete such a program of study.

This year, **Special Act 19-8** establishes a task force to analyze and make recommendations on issues relating to the implementation of laws governing dyslexia instruction and training. Part of the analysis for the task force will include whether current in-service training and professional development models are appropriate to provide teachers with the knowledge and understanding to meet the needs of dyslexic students. Additionally, the task force may make recommendations on the components needed to assist and identify students at risk for dyslexia and whether reporting screening data for all school districts would be beneficial. By January 1, 2021, the task force will submit a report on its findings and recommendations to the appropriate committees within the General Assembly.

Study Regarding Regional Cooperation

Section 6 of **Public Act 19-91**, effective from passage, requires SDE to conduct a study concerning the authorization of towns and cooperative arrangements under Conn. Gen. Stat. § 10-158a to be considered a local education agency for purposes of regional cooperation, maximization of efficiencies and cost-savings, without establishing a regional school district. The study is due by January 1, 2020.

Healthy and Balanced Living Curriculum Framework

Section 7 of **Public Act 19-91**, effective from passage, calls for SDE to update, by January 1, 2020, the comprehensive school health education component of the Health and Balanced Curriculum Framework to include sexual harassment and assault, adolescent relationship abuse and intimate partner violence, human trafficking and commercial sexual exploitation.

School Governance Council Member Terms Limits

Public Act 19-91, July 1, 2019, revises Conn. Gen. Stat. § 10-223j to provide that members of a school governance council may serve up to four two-year terms, rather than the previous limit of two terms.

After School Program Grants

Local and regional boards of education may biennially apply to SDE for an “after school program grant” to support after school educational, enrichment and recreational programs for students in grades K-12. Section 248 of **Public Act 19-117** establishes a new requirement, effective for the 2019-2020 fiscal year and each fiscal year thereafter, that SDE award a minimum of 10% of the appropriated funds to municipalities

or local or regional boards of education with a total population of 7,500 or fewer. The Act, however, further provides that any funds not awarded to those municipalities or boards of education by October 15th of each fiscal year may be awarded to any municipality or local or regional board of education. For the 2019-2020 fiscal year and each fiscal year thereafter, grant recipients may expend funds for transportation purposes as part of the after school program.

Uniform Chart of Accounts

Current law requires school districts to annually report school revenues and expenditures to OPM and SDE. Such reports must be filed in accordance with the Uniform Chart of Accounts (“UCOA”) developed by SDE and the Accounting Manual for Municipalities developed by OPM. Effective July 1, 2019, **Public Act 19-117** requires that the UCOA include amounts of federal impact aid received by the school district.

Youth Bureau Grant Program

SDE had been responsible for administering the youth service bureau grant and the enhancement grant programs. Effective July 1, 2019, Sections 251-256 of **Public Act 19-117** transfer that responsibility to DCF.

Technical Education and Career System

Sections 273-284 of **Public Act 19-117** delay by two years the implementation of legislation regarding the transition of the Technical Education and Career System to an independent agency.

School Building Projects

July Special Session Public Act 19-1 makes several revisions to statutes specifically related to school

construction grant projects. One notable change, effective immediately, is a new requirement that a school building committee established by a town or regional school district for a school building project must include at least one member who has experience in the construction industry. The Act also extends the authority of the state to authorize emergency approval of construction grants to projects related to school security projects. The Act further makes adjustments to the reimbursement rates currently available to diversity schools and provides diversity schools an opportunity to obtain an additional 10% reimbursement. Lastly, the Act makes several revisions to certain contracting requirements for architectural, construction management and consultant services related to construction projects that are effective July 1, 2020.

Teachers Retirement System Contributions

Public Act 19-73, effective October 1, 2019, revises the definition of “contributions” in Conn. Gen. Stat. § 10-183b, the teachers’ retirement system statute. Beginning January 1, 2020, mandatory contributions will continue to consist of 7% regular contributions and 1.25% health contributions, except that no health contributions will be required for an employee of

the state that (A) has completed the vesting service necessary to receive health benefits provided to retired state employees, and (B) does not participate in any group health insurance plans maintained for retired teachers. The bill does not affect any other obligations of state employees to contribute to the state’s retiree health care trust fund.

Additional Registration for Carriers Transporting Students

Section 7 of **Public Act 19-119** provides that, as of October 1, 2019, each carrier engaged in the transportation of students must register with the Commissioner of Motor Vehicles in a manner determined by the commissioner. Registration must include the carrier’s name, address, and the name of the employee or agent assigned to review the semimonthly DMV reports concerning the status of the licenses and endorsements of the carrier’s drivers. A carrier must file amendments to the registration report regarding any material change in information within thirty calendar days after the carrier knows or reasonably should know of the change. Failure to comply with this new registration requirement subjects the carrier to civil penalties ranging from \$1,000 to \$2,500.

These materials have been prepared by Shipman & Goodwin LLP for informational purposes only. They are not intended as advertising and should not be considered legal advice. This information is not intended to create, and receipt of it does not create, a lawyer-client relationship. Viewers should not act upon this information without seeking professional counsel. © 2019 Shipman & Goodwin LLP. One Constitution Plaza, Hartford, CT 06103.