

Education Legislation Summary

2007 SESSION

CONNECTICUT GENERAL ASSEMBLY

In its 2007 session, the General Assembly passed a number of new laws affecting boards of education and school districts. Except as otherwise noted, the changes are effective October 1, 2007. The following material summarizes the statutory changes of greatest interest to school board members and school officials. However, these changes should be reviewed in the context of specific situations. Moreover, there are numerous other changes that are not included in this summary. All of the 2007 Public Acts are available online at <ftp://ftp.cga.ct.gov/2007/act/Pa/>. Also, we will be happy to send you copies of any of these new Public Acts upon your request.

GENERAL SCHOOL DISTRICT OPERATION

Textbook Loans

PA 07-190 allows boards of education to lend textbooks to students residing in and attending non-public elementary and secondary schools in their districts. Current law allows the loans at the request of the student or parent or guardian; the new Act allows non-public school administrators to make the request on students' behalf as well. The Act also eliminates the requirement that the textbooks be currently in use in the district and instead allows a board to lend any non-religious textbook available to it from its book distributor. Effective July 1, 2007.

Transportation

In this session, the General Assembly addressed student transportation in several ways.

First, under PA 07-224, additional background checks are required on applicants for licenses and endorsements to drive school buses and school transportation vehicles ("STV"), including a check of the state child abuse registry. It requires the Department of Motor

Vehicles ("DMV") Commissioner to deny a license or suspend an endorsement for transporting students for anyone convicted of a serious criminal offense, if the person has not completed his or her sentence or completed it within the past five years. In addition, this Act (1) requires, rather than allows, the DMV Commissioner periodically to notify public transportation providers, including school districts, of anyone whose commercial driver's license or passenger endorsement the Commissioner has suspended, withdrawn, or revoked, and (2) requires each carrier (which includes school districts transporting students) to check these reports at least twice per month and, within 10 days after the review, remove from driving any of its school bus or STV drivers who are not properly licensed.

Second, the Act extends required random drug testing to those employed to drive student transportation vehicles (STVs) that carry 10 or fewer students. It bars carriers from continuing to employ as a driver any school bus or STV driver who tests positive for drugs. The bar runs for two years after a first positive test, and it becomes permanent after the second such test. The Act increases penalties for carriers who fail to implement required drug testing for school bus and STV drivers and applicants and for school transportation contractors who allow anyone not properly licensed to drive a school bus carrying school children. The Act also imposes fines on carriers that fail to carry out the required checks of drivers' licensure status or that fail to remove an operator who is not properly licensed.

Third, the Act bars the DMV Commissioner from issuing temporary licenses with school bus or STV endorsements, eliminates special license endorsements for camp vehicle drivers, requires that a school bus company's name and phone number and the bus number be conspicuously painted in black lettering on



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the rear and sides of each school bus, and makes other minor and technical changes.

Fourth, PA 07-134 imposes new requirements on transporting persons in wheelchairs. Now, the following will be required: (1) anyone transporting a person being transferred into or out of a motor vehicle when in a wheelchair must provide and use a device designed to secure the person in the wheelchair while transferring him from the ground to the vehicle or the vehicle to the ground, and (2) operators of certain specific types of newly registered vehicles must provide additional protection through the use of a device that secures the wheelchair to the motor vehicle's mechanical lift, or otherwise prevents or seeks to prevent the person from falling from the vehicle.

The device used to secure the person to the wheelchair must be in the vehicle at all times. The DMV Commissioner is authorized to adopt regulations, in consultation with the Departments of Transportation and Public Health, to implement these requirements. Service buses, school buses, and student transportation vehicles must meet the restraint device requirement as a condition of their required periodic safety inspections conducted by the Department of Motor Vehicles.

Finally, June Special Session PA 07-04, Section 19, requires towns and school boards to retrofit certain full-size school buses with emissions-reducing equipment by September 1, 2010, as long as the work can be done within the grant amounts the Act establishes. The Act applies to school buses as defined by law (CGS § 14-275), which are Type I diesel school buses, including spare buses operated by or under contract to a school district, but does not apply to emergency contingency or low usage vehicles. Under the Act, the Department of Environmental Protection (DEP) has various obligations, which include providing grants and reimbursing towns and school boards that retrofit their buses voluntarily under certain circumstances. DEP also must develop an outreach plan to educate municipalities, school boards, and bus companies about the emission and procurement contract requirements and help them retrofit their buses. Effective July 1, 2007.

Pesticide Use on School Grounds

PA 07-168 modifies the requirements regarding use of pesticides on school grounds in various ways, including the following: (1) it expands a ban on applying lawn care pesticides to school playing fields and playgrounds to schools with students through grade eight; (2) it extends for one year an exemption for pesticides applied on these grounds according to certain integrated pest management plans (IPMs); (3) it expands a school superintendent's ability to authorize emergency applications of lawn care pesticides in health emergencies to any public school, apparently with students through grade eight, instead of just a public elementary school; and (4) it makes the Department of Environmental Protection responsible for administering and enforcing school pesticide applications.

Under current law, the Commissioner of Environmental Protection may designate DEP officers or employees to enforce pesticide laws by, among other things, observing pesticide applications, inspecting equipment, obtaining pesticide samples, and verifying applicator certifications, and this Act extends that authority to school pesticide applications. Similarly, the Act extends the Commissioner's statutory duty to review a sampling of pest control management plans of state agencies to those of school districts.

Democracy Education

PA 07-138 requires public and private elementary schools to provide a program on democracy. The program must provide students with instruction about the branches of government in a *participatory manner* as part of their fourth or fifth grade curriculum. This Act supplements existing law, which already requires that all schools provide a U.S. history program and prohibits students from graduating if they are found to be unfamiliar with the subject. Effective July 1, 2007.

Magnet Schools

June Special Session, Public Act 07-3, Section 42, gives greater flexibility to magnet schools with unfilled student slots. Now, after accommodating students from participating districts, such schools may enroll any interested student directly into their programs. Preference must be given to a student from a non-participating district. That district must contribute to the magnet school, an amount equal to the cost of tuition, if any, charged to participating districts. If the district fails to pay the tuition, the Commissioner of Education can withhold ECS funds up to the amount of the unpaid tuition and transfer it to the magnet school. June Special Session, Public Act 07-3 also increases funding for magnet schools in various ways.

STUDENT MATTERS

Suspensions and Expulsions

In this session, the General Assembly addressed the issue of student discipline in several ways. PA 07-66 establishes a presumption against out-of-school suspensions, and it extends from five (5) to ten (10) days the maximum length of an in-school suspension. Now, suspensions must be in-school suspensions unless the school administration determines through the required, informal suspension hearing that the student (a) poses such a danger to persons or property, or (b) is so disruptive of the educational process that he or she must serve the suspension outside of school. This amendment leaves in place related statutory limitations that (1) suspensions may not exceed ten consecutive school days, (2) students can be placed in an in-school suspension up to fifteen (15) times or for a total of fifty (50) days in one school year, whichever results in fewer days, and (3) students can be suspended out-of-school only ten (10) times or fifty (50) days, whichever results in fewer days. This Act takes effect on July 1, 2008.

Other changes take place immediately. Specifically, now a school administration may shorten or waive the suspension period for a student who has not previously been suspended or expelled, if the student completes an administration-specified program and meets any other conditions the administration may impose. PA 07-122. This new law also permits boards of education to shorten or waive expulsions if the student completes a

board-specified program and meets other conditions the board may impose. However, in establishing such programs to shorten or waive suspensions or expulsions, school officials (or board members) may not require that parents or students pay to participate in the program they establish.

Significantly, Public Act 07-122 gives new flexibility as regards the notice of suspension or expulsion for first time offenders. In general, notice of suspension or expulsion must be maintained in the cumulative record of the student until the student graduates from high school, at which time they are expunged by operation of law (except for expulsions for possession of a firearm or deadly weapon, which are not). Now, when students are suspended or expelled for the first time, the administration or the board of education, respectively, may choose to expunge such notification of suspension or expulsion when the student completes the specified program and requirements. PA 07-122 took effect on July 1, 2007.

Finally, in the notice of an expulsion hearing provided to parents and students, boards of education must now include information about (1) free or reduced rate legal services that are locally available, and (2) how the student or parent may take advantage of these services. June Special Session, PA 07-3, Section 49, effective July 1, 2007.

Restraints and Seclusion in Public Schools

PA 07-147 regulates the use of physical restraints on and seclusion of students receiving special education services in public schools and students for whom eligibility determinations are pending. The bill is similar to legislation that has applied to regional educational service centers, private institutions, facilities that provide special education under contract with school boards, as well as certain state agencies.

The law imposes various reporting requirements on local and regional boards of education. School officials must now notify parents or guardians each time a student is physically restrained or placed in seclusion. The law also provides that a school district *may* notify the State Board of Education if a student is injured through physical restraint or seclusion. In addition, the law requires school officials to provide information to

parents or guardians at the initial planning and placement team meeting about the laws and regulations governing the use of physical restraints and seclusion and their rights under such laws. Finally, local and regional boards of education will be now required to compile annual reports of each instance of physical restraint or seclusion and the nature of the underlying emergency that necessitated its use.

The law limits the use of seclusion. The Act permits seclusion only when used in accordance with a student's Individualized Education Program or in an emergency to prevent immediate or imminent injury to the student or others, so long as it is the least restrictive alternative.

The State Board of Education has new responsibilities as well. It is required to adopt regulations on the use of physical restraint and seclusion. In addition, the State Board of Education must report an incident to the Office of the Child Advocate if it receives a report from a local or regional board of education of serious injury or death caused by physical restraint or seclusion. Finally, the responsibilities of the State Board of Education now expressly include the regulation of curriculum and conditions of instruction as regards physical restraint or seclusion of children receiving special education services.

Transfer of Records for Students Exiting Unified School District #1

Public Act 07-38 amends Conn. Gen. Stat. § 10-220h, which requires that 1) a school district receiving a transfer student must give written notice of the student's enrollment to the student's former school district, and 2) a sending district must transfer the student's records within 10 days after receiving such notice. The Act elaborates on these requirements as regards to Unified School District #1, which provides education to students in the custody of the Department of Correction. Now, a district receiving a student from Unified School District #1 must notify Unified School District #1 within ten days, and Unified School District #1 must transfer records within the following 10 days.

Deprivation of Rights Due to Sexual Orientation

PA 07-62 adds sexual orientation to the prohibitions against discrimination in Conn. Gen. Stat. Section 46a-58, which is under the jurisdiction of the Commission on Human Rights and Opportunities. It also adds sexual orientation to the list of protected characteristics in Conn. Gen. Stat. Section 53-37a, which provides for criminal penalties for discriminatory acts. These changes supplement the provision in Section 10-15c that guarantees all children five years of age and older an equal opportunity to attend the public schools without discrimination on various bases, including sexual orientation. Effective October 1, 2007.

Health Assessments for Adolescents

PA 07-58 requires public school students to have health assessments in either grade 9 or 10, instead of grade 10 or 11. There is no change to the existing requirement that students also have an assessment in grade 6 or 7. The law requires the assessment to include a physical examination and chronic disease assessment (including asthma), immunization update and several other specific examinations. This change is not effective until July 1, 2008.

EMPLOYEE MATTERS

Extension of Federal FMLA Benefits to Civil Union Partners

PA 07-245 provides that each political subdivision of the state must provide its employees who are party to a civil union the same family and medical leave benefits under the federal Family and Medical Leave Act (FMLA) as are provided to an employee who is married. The Act also requires that each political subdivision of the state permit employees who thus are eligible for FMLA leave time to have additional leave time to serve as an organ or bone marrow donor. Finally, the Act adds civil union status to the term "marital status" (with certain specific technical exceptions).

Certification Changes

PA 07-241 authorizes the Commissioner of Education to waive the requirement that a school superintendent hold a superintendent certificate issued by the State Board of Education (SBE), if the person meets the Act's criteria for exceptional qualifications, including past certified service as a superintendent in another state for at least fifteen years. This Act also requires the State Board of Education to adopt regulations to certify marital and family therapists employed by local school boards.

PA 07-157 requires the State Board of Education to renew certificates, authorizations, and permits of members that expire when the individual is on active duty in the armed forces or ordered out to military service while in the national guard, provided that they apply for such renewal within one year after discharge from active duty or ordered military service. The renewal is valid for at least the amount of time the applicant was on active duty or ordered military service but for a period no longer than the original credential was valid. Applicants must submit to the applicable entity or official any documentation required for renewing the credential. As under existing law, this provision does not apply to reservists or guard members on active duty for annual training that is a regularly scheduled obligation and not part of mobilization.

Minority Teacher Recruitment and Retention

In an effort to improve the recruitment and retention of minority teachers, June Special Session Public Act 07-3, Section 31, requires the RESC Minority Recruiting Alliance to study how best to (1) encourage minority middle and high school students to go to college and enter teacher preparation programs, (2) recruit minority college students to enroll in teacher preparation programs and become teachers, and (3) recruit and maintain minority teachers in Connecticut schools.

The Act defines "minority" as anyone whose race is other than white, or whose ethnicity is Hispanic or Latino, as both are defined by the U. S. Census Bureau. The Act also requires the Alliance to propose guidelines for pilot minority teacher recruitment and retention programs to the Commission or Education and the Commissioner of Higher Education. Such pilot

programs may include 1) a Fellows program; 2) Future Teachers' Club program; and 3) a Cadet Teacher program, all of which are described within the Act's provisions.

Prohibition on Diminishing or Eliminating Municipal Retiree Benefits

Public Act 07-221 takes effect from date of passage, and it bans a municipality or special taxing district from diminishing or eliminating a pension or retirement system right or benefit granted to a retiree at the time the employee retires. The new Act is similar to an existing law that prohibits any diminishment or elimination of rights or benefits granted to an individual under any municipal retirement or pension system (C.G.S. § 7-450) except that the bill specifically supersedes the law creating the Waterbury Financial Planning and Assistance Board (SA 01-1). The Act permits a municipality or special taxing district to change the retirement plan administration if the rights and benefits provided after the change are at least equivalent to the rights and benefits provided previously.

School Paraprofessionals

June Special Session, Public Act 07-3, Sections 27 through 29, require the State Department of Education (SDE), through its State Education Resource Center, to promote professional development for school paraprofessionals responsible for instructing students, including (1) providing local school boards with appropriate training materials, (2) helping boards use paraprofessionals effectively, and (3) developing ways to improve communication between teachers and paraprofessionals to provide effective student instruction.

The Act also requires the Commissioner of Education to establish a paraprofessional advisory council made up of one representative from each of the statewide unions representing school paraprofessionals with instructional responsibilities. This council will advise the Commissioner or his designee at least quarterly of the (1) need for paraprofessional training, and (2) effectiveness of the content and delivery of existing training.

The council must also report these recommendations to the Education Committee of the General Assembly at least quarterly.

Teacher Retirement

Public Act 07-126 permits professional staff employed by the State Education Resource Center (SERC) who have certificates or permits issued by the State Board of Education to participate in the Teachers' Retirement System (TRS). This Act also allows TRS participants to purchase credit for pre-July 1, 2007 service with SERC.

Public Act 07-186 addresses the current projected deficit in the Teacher Retirement Fund (TRF) by authorizing additional state general obligation ("GO") bonds notwithstanding the state's debt limit. The Act allows the state to reduce annual TRF contributions only if (1) it protects bondholders' rights in another way; or, (2) the Governor declares an emergency or extraordinary circumstances, a supermajority of the legislature approves, and the reduction does not cause the TRF's funded ratio (assets versus liabilities) to fall below specified levels. The Act also makes all TRS benefits contractual for all vested TRS members while the bonds are outstanding, thus barring the state from unilaterally reducing benefits during that time. Certain specified TRS benefits are already contractual for active teachers who were vested in the system on October 1, 2003 or who become vested or accumulate 10 years of credited service after that date. In addition, the Act eliminates the cost of living adjustment reserve account ("CLARA") within the TRF and credits all CLARA's assets to the TRF. CLARA is currently used to fund annual cost of living adjustments (COLAs) for TRS members who retire on or after September 1, 1992 and their surviving beneficiaries. Under current law, CLARA is funded by allocating to it any total annual TRF returns above 11.5%. PA 07-186 guarantees these retirees an annual COLA by eliminating a provision that bars TRS from paying them a COLA in any year that TRS actuaries determine CLARA does not have enough money to pay for it. It also reduces promised retirement COLAs for members who join TRS on or after July 1, 2007.

Visiting International Teachers

PA 07-30 provides that the State Board of Education shall, upon request by a local or regional board of education, issue a temporary international teacher permit for a subject shortage area. The permit allows a foreign teacher with certain qualifications to teach under the requesting board's jurisdiction. Such permits will be valid for one year with a maximum of two one-year renewals in the two years after issuance. The school board seeking the permit must attest that it has a plan for supervising the foreign teacher. Also, the teacher candidate must meet certain requirements, including holding a valid J-1 visa (exchange visitor visa) from the U. S. State Department and have the equivalent of a bachelor's degree from an accredited institution in either the subject to be taught or closely related subject. Alternatively, if the degree major is unrelated the teacher must successfully complete an SBE-approved teacher test in the subject area. Also, the teacher must have completed in his/her home country the equivalent of a regionally accredited teacher preparation program and must successfully complete an English oral proficiency exam approved by the Commissioner of Education. Effective July 1, 2007.

ECS FUNDING

In this session, the General Assembly made many changes related to educational funding. Highlights of these changes follow.

A major change was made in the ECS formula. June Special Session, Public Act 07-3, Section 61, changes the formula starting in FY 08, resulting in an increase in aid to all towns, to be phased in over time. The Act changes the formula in the following ways:

- Increases the ECS foundation from \$5,891 to \$9,687 per student, thereby increasing grant amounts to all towns.
- Increases the minimum ECS grant from 6% to 9% of the foundation for most towns and to 13% for the 20 school districts with highest concentrations of low-income students. Minimum grants ensure that all towns receive a minimum grant amount regardless of wealth.

- Raises the state Guaranteed Wealth Level from 1.55 to 1.75 times the median town wealth. This change increases the state share of education funding.
- Makes various changes in the weightings of student counts for educational and economic need. It increases certain weightings, resulting in increased aid for towns with concentrations of students with non-English dominant languages and students who are eligible for federal Title I aid. The Act eliminates the existing weighting for students who perform below proficiency on mastery tests.
- Reduces, in FY 09, “need student counts” by 25% of the full-time students who attend interdistrict magnet schools receiving state magnet operating grants. Under current law, all such students are included in ECS student counts. This change reduces grants for towns with students attending interdistrict magnet schools on a full-time basis.
- Eliminates “hold harmless,” the requirement that a town receive an ECS grant that is at least, 1) equal to the grant it received in the previous fiscal year or 2) 60% of its full ECS entitlement.

In addition to making these changes in the ECS formula, the Act also overrides provisions of any state law, local charter, special act, or home-rule ordinance, to require local and regional school districts that have unspent ECS grant funds remaining at the end of any fiscal year to carry those funds forward to the next fiscal year.

Current law requires any town that receives an increase in its annual ECS grant to increase its local budget for education by at least the amount of the increased aid. June Special Session, Public Act 07-3, Section 63, modifies the minimum budget requirement (MBR) in various ways. First, for FY 08 and 09, it requires most towns to spend for education at least their budgeted appropriation for the prior year plus an amount ranging from 15% to 65% of their ECS increases. Second, it calculates the MBR percentage as the average of the difference between each town and the highest-ranked town in the following categories: (1) current program expenditures per student, (2) per capita wealth

(equalized net grand list adjusted for income), and (3) percentage of students who score below proficiency on state mastery tests. The bigger the average difference, the higher the percentage of its ECS increase a town must spend (i.e., the closer to 65%). Finally, any town whose school district is in the third year or more of failing, as a district, to make Adequate Yearly Progress (AYP) in math or reading, must add 20 percentage points to the share of its ECS increase that it must spend on education.

With respect to increases resulting from changes to the MBR, the Act allows local school boards to request the Commissioner of Education to defer part of these increases for FY 08 to FY 09 with one exception – towns may not defer increases that they must spend based on their failure to make AYP for three years or more.

ADDRESSING LOW ACHIEVING SCHOOL DISTRICTS

June Special Session, Public Act 07-3, Section 32, institutes numerous measures aimed at improving accountability and the performance of low performing school districts. First, the Act requires that schools and districts designated as “in need of improvement” and requiring corrective action under the federal No Child Left Behind Act (NCLB) be put on a list of low-achieving schools and districts. Second, the Act mandates that these school and districts be placed under the supervision and direction of the State Board of Education (SBE). The Act includes a list of actions, any of which the SBE must take pursuant to its new authority in order to improve student performance and remove a school or district from the “low-achieving” list. The list includes providing incentives to attract highly qualified teachers and principals and to direct the transfer and assignment of teachers and principals. Furthermore, the SBE, after consulting with the Governor and the district’s chief elected official(s), can ask the General Assembly to adopt legislation allowing the SBE or another authorized entity to control a low achieving district that fails to make sufficient progress toward the benchmarks and fails to make adequate yearly progress (AYP) under NCLB for two years.

Third, June Special Session, PA 07-3, Section 32 also requires that the State Department of Education

evaluate any district or elementary school after two successive years of failing to make AYP, after which such district or school will be designated as a low-achieving school district or school. After the evaluation, the Commissioner may require the school or district to institute certain educational programs if (1) on any subpart of the third grade statewide mastery examination, 30% or more of the students in any NCLB subgroup do not achieve the level of proficiency or higher, or (2) the Commissioner determines that it would be in the best educational interests of the school or the school district to have any of these programs.

Some of the programs that the Commissioner may require that the school district or school provide include: full-day kindergarten classes; summer school; extended school days; weekend classes; tutoring; or professional development to its administrators, principals, teachers and paraprofessional teacher aides. In ordering these educational programs, the Commissioner may limit the offering to the subgroup of students that have failed to achieve proficiency, those in particular grades, or those who are otherwise at substantial risk of educational failure. The identified low-achieving school district or the school district in which an identified low-achieving school is located must pay for any educational programs ordered. The Commissioner of Education also must, within the limits of SDE's capacity, conduct a study of academic achievement of individual students over time as measured by performance on the statewide mastery examination in grades three to eight. If the study shows a pattern of continuous and substantial growth in educational performance for the students, the Commissioner can determine that the district or school is not subject to the above requirements, although the district or school must still comply with NCLB.

Fourth, the Act requires the Comptroller to withhold any grant funds that a town is required to appropriate to a board of education due to low academic achievement in the school district. The funds must be transferred to the State Department of Education for expenditure on behalf of the identified school district to implement any of the measures required by the SBE and to offset any other local education costs that the Commissioner deems appropriate to achieve school improvements. The funds must be awarded by the Commissioner to the board of education for the identified school district on the condition that it spends the funds in accordance with his directives

Fifth, June Special Session, Public Act 07-3, Section 33 proposes a school improvement model, allowing a board of an elementary or middle school that fails to make AYP for two years, to reorganize the school into themed academies of up to 175 randomly assigned students each, divided into different classes based on grade. The Act imposes various requirements with respect to these academies including a ninety (90) minute math block and a two hour literacy block for each class per day, an individual education plan for each student, regular meetings among teachers and teachers and the school principal, regular assessments for students to evaluate short-term and long-term progress, and meetings among parents, teachers, and principals to discuss a child that is falling behind, as indicated by the assessments.

Finally, June Special Session, Public Act 07-03, Section 34 requires the formation of a committee to study high school graduation requirements.