

2011 SESSION CONNECTICUT GENERAL ASSEMBLY

In its 2011 session, the General Assembly passed a number of laws affecting boards of education and school districts. The following is a general summary of legislation passed. Application of a specific law to a particular set of facts or to a particular situation may require more detailed analysis of the law's provisions. In addition to the summaries below, boards of education should refer to the Employment Legislation Summary for additional legislative changes applicable to all employers. These new statutes are available online through the General Assembly website at <http://www.cga.ct.gov/>. We will be happy to send you copies of any of these new Public Acts upon request.

Bullying

Public Act 11-232 makes significant and substantial changes to existing law regarding bullying. Effective July 1, 2011, bullying is now defined as 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 district (communicative acts), or a physical act or gesture by one or more students repeatedly directed at another student attending school in the same school district (physical acts) that: (1) causes physical or emotional harm to the student or damage to the student's property; or (2) places the student in reasonable fear of harm to himself or herself, or of damage to his or her property; or (3) creates a hostile environment at school for such student (a hostile environment is a situation in which bullying among students is sufficiently severe or pervasive as to alter the conditions of the school climate); or (4) infringes on the rights of the student at school; or (5) substantially disrupts the education process or the orderly operation of a school. This new law also defines cyberbullying, and explicitly requires school districts to prohibit bullying which occurs outside the school setting if such bullying (1) creates a hostile school environment for the victim; (2) infringes on the rights of the victim at school; or (3) substantially disrupts

the education process or the orderly operation of a school.

Among its many requirements, Public Act 11-232 now requires districts to: (1) develop and implement a "safe school climate plan" and to submit such plan to the State Department of Education ("SDE") no later than January 1, 2012; (2) appoint a safe school climate coordinator, starting on July 1, 2012; and (3) provide in-service training for certified teachers, administrators, and pupil personnel. Starting with the 2012-2013 school year, this new law also requires that the principal of individual schools or his/her designee serve as the safe school climate specialist, and that the principal establish a committee (or designate an existing committee) to be responsible for developing and fostering a safe school climate and addressing issues related to bullying in school.

Prior law had required school district policies to enable anonymous reports of bullying to teachers, school administrators, and designated school staff. The new law permits anonymous reports to any school employee, as defined by the new legislation, and requires any school employee who witnesses acts of bullying or receives reports of bullying to orally notify

the safe school climate specialist within 1 school day and to file a written report not later than 2 school days after making their oral report. Finally, under this new law, the school principal is now obligated to notify the appropriate local law enforcement agency when the principal believes that any act of bullying constitutes criminal conduct. For more detailed information about this new legislation, please see <http://www.ctschoolaw.com/blog.aspx?entry=213>.

Child Abuse and Neglect

Public Act 11-93 expands existing laws regarding the reporting and investigation of child abuse and neglect. Among its requirements, this new law requires that any applicant for any position within the public schools submit to a child abuse and neglect registry check. This requirement is effective July 1, 2011 for applicants for certified positions and July 1, 2012 for noncertified positions. In addition, Public Act 11-93 requires the Department of Children and Families (“DCF”) in consultation with the SDE to develop a model mandated reporter policy and provide mandated reporter training to new school employees. This new law also expands the ability of boards of education to obtain records from DCF in connection with potential employees by requiring DCF to promptly provide such records without the consent of the potential employee.

Effective July 1, 2011, the definition of mandated reporter was expanded to include any school employee, a term which is defined broadly to include individuals who have regular contact with students through the performance of their duties. On or before February 1, 2012, each board of education must adopt a written policy regarding the reporting by all school employees and distribute it annually to school employees; also, each board of education must document that all employees have received the written policy and completed a required training program. Finally, this Act now requires, effective July 1, 2011, that boards of education maintain “in a central location” all records of allegations, investigations, and reports that a child has been abused or neglected by a school employee, including reports made to DCF, and authorizes the SDE to access such records.

Tenure and Non Renewal Notification

Public Act 11-135 amends existing law regarding teacher tenure. For the purposes of calculating continuous employment towards tenure, non-tenured teachers working under cooperative arrangements pursuant to Section 10-158a can count previous continuous employment with a board of education immediately prior to the cooperative arrangement towards tenure. In addition, a tenured teacher who is employed by a board of education that enters into a cooperative arrangement pursuant to Section 10-158a will not have a break in continuous employment for the purposes of tenure as a result of the cooperative arrangement.

On a related topic, Public Act 11-136 makes a slight, but significant, change to the deadline for notification of non-renewal of teacher contracts. Effective July 1, 2011, a district may provide written notification of non-renewal to non-tenured teachers it wishes not to renew by May 1 (rather than by April 1, as was previously the case).

Teacher Certification Requirements

Public Act 11-127, effective July 1, 2011, allows teacher candidates who complete student teaching in private schools to count that student teaching towards the preparation and eligibility requirements for initial teaching certificates. To qualify, the student teaching must be at a private school approved by the State Board of Education, offered through a teacher preparation program at a higher education institution, and completed through a cooperating teacher program.

Qualifications of Substitute Teachers

Public Act 11-27 amends existing law to allow the Commissioner of Education to waive the requirement that a substitute teacher hold a bachelor’s degree upon the request of a superintendent of schools. This replaces existing law and represents a return to the law as it stood prior to the 2009 changes to the degree requirements for substitute teachers.

Minimum Budget Requirement (“MBR”)

For fiscal years 2012 and 2013, Public Act 11-234 requires most, but not all, towns to budget the same amount for education as they budgeted in the previous year. During Fiscal Year 2012, all towns must generally appropriate at least the amount appropriated for education in Fiscal Year 2011. Towns which chose to reduce their local education appropriation pursuant to Public Act 09-1 -- which allowed towns to reduce local appropriations after school districts received unexpected direct mid-year funding under the American Recovery and Reinvestment Act’s (“ARRA”; commonly referred to as “The Stimulus Package”) State Fiscal Stabilization Fund -- must now also restore such local education funding.

There are several exceptions to these general requirements. First, if a school district had fewer students enrolled in the previous school year than in the year before, the town may reduce its MBR by \$3,000 times the enrollment reduction, but the total reduction may not be more than 0.5% of the previous year’s appropriated amount. The second exception applies only to school districts which do not maintain a high school and have arranged for their high school level students to attend another school district’s high school on a tuition basis. Should a reduction in the number of high school age students occur in such a “sending” district, the sending district may reduce its MBR by an amount equal to the number of students reduced times the tuition paid per student, but the total reduction may not be more than 0.5% of the previous year’s appropriated amount. Third, if a school district has permanently closed one or more schools in the district, or will close one or more schools in the next two years, due to declining enrollment, the resulting savings may enable the municipality to reduce the applicable MBR in an amount determined by the commissioner. Towns are not eligible to reduce their MBR in any of these three ways, however, if (1) their school district has been identified for improvement and the poverty rate in the town is greater than 10 percent; or (2) the

district is in the third year or more of being identified as in need of improvement and (a) has failed to make adequate yearly progress in math or reading at the whole district level or (b) has made adequate yearly progress under the “safe harbor” provisions of No Child Left Behind.

Interdistrict Public School Attendance Program

Various fiscal components of the interdistrict attendance program (Open Choice) are effected by Section 188 of Public Act 11-48. For the 2011 fiscal year, the SDE gave receiving districts an annual grant of up to \$2,500 for each out-of-district student who attended school in the receiving district under the Open Choice program. For the 2012 fiscal year, and each fiscal year thereafter, the grant paid to receiving districts will be as follows: if the number of out-of-district students is less than 2% of the total student population of the receiving district, the annual grant will be \$3,000 for each out-of-district student. If the number of out-of-district students is greater than or equal to 2%, but less than 3%, of the total student population of the receiving district, the annual grant will be \$4,000 for each out-of-district student. If the number of out-of-district students is greater than or equal to 3% of the total student population of the receiving district, the annual grant will be \$6,000 per out-of-district student.

Public Act 11-48 amends the description of the purpose of the program by deleting the phrase “for students enrolled in the public schools,” thereby allowing students enrolled in private schools to participate in the Open Choice program.

Education Cost Sharing (“ECS”)

Section 189 of Public Act 11-48 establishes a task force to study issues related to state funding for education in the context of state constitutional requirements. The ECS grant formula remains unchanged.

Study of the State Technical High School System

Section 191 of Public Act 11-48 establishes a task force to study the finance, management, and enrollment structure of the State Technical High School System.

School Breakfast Grants

Section 198 of the Public Act 11-48 renders more schools eligible for state school breakfast grants by reducing the eligibility standard. If at least 20% (rather than the existing standard of 40%) of lunches served to students are free or reduced price, the school qualifies for the breakfast program.

Notification of Mediation and Arbitration Decisions

Effective July 1, 2011, Public Act 11-125 revises existing law to require arbitrators to send a copy of teacher or administrator binding arbitration awards to the legislative body of the town for the district involved, or, in the case of a town for which the legislative body of the town is a town meeting or representative town meeting, to the board of selectmen, as well as to the education commissioner, town clerk, board of education, and union.

Student Expulsion

Effective July 1, 2011, existing student expulsion law is revised to clarify that if a board of education expels a student who is subsequently committed to a juvenile detention center, the Connecticut Juvenile Training School, or any other residential placement for the same offense, any period of expulsion must run concurrently with the period of commitment. Pursuant to Public Act 11-115, if the expelled student subsequently seeks to return to a school district after release from juvenile detention, and the student had not been expelled by the local or regional board of education for the offense for which the student was committed, the board for the school district to which the student is returning must allow the student to return and may not expel the student for additional time for the offense.

In addition, Public Act 11-157 revises existing law to make changes regarding the confidentiality of information provided by representatives of the municipal or state police departments in connection with an expulsion hearing. Prior law provided that information with respect to a child under 16 is confidential; effective October 1, 2011, any information with respect to a child under 18 shall be confidential.

Effective July 1, 2011, Public Act 11-126 allows a student who is at least 16 years old to attend adult education as part of an alternative educational opportunity during an expulsion period without having to withdraw from regular public school.

Student Transfers

Under existing law, when a student enrolls in a new school district (including a charter school), the new school district must provide written notification of such enrollment to the student's former school district. Public Act 11-115 revises this requirement to add that such notice to the former district must be made not later than two business days after the student's enrollment. This Act also sets forth requirements regarding student transfers from either one of the unified school districts to a local or regional board of education.

Closing the Achievement Gap

Public Act 11-85 amends existing law in several ways. First, it permits the local or regional board of education for a school classified as low-achieving pursuant to Section 10-223e(c)(1) of the General Statutes to increase the number of school sessions each year and the number of school hours each day in order to improve student performance. Second, it requires priority school districts to assess the reading levels of kindergartners at the end of the school year, and of first through third graders at the beginning, middle, and end of each school year. If a student in grades K-3 has a deficiency in reading, the school must develop an individual reading plan for that

student (under existing law, this is called a personal plan). Finally, the Act requires anyone seeking a teacher certification in elementary education to achieve a satisfactory evaluation on the appropriate SDE-approved math assessment.

Secondary School Reforms

Public Act 11-135 delays by two years the implementation of the secondary school reform requirements enacted in 2010, delays by two years the SDE's development and approval of end-of-year examinations, and revises and delays by one year the start of biennial status reports on the implementation of the new graduation requirements.

School Governance Councils

Public Act 11-135 also exempts boards of education with low-achieving schools that have only a single grade or that already have substantially similar school governance councils to those required by law from the requirement to establish new school governance councils.

Student Success Plans

Instead of requiring schools districts to collect information on students' career and academic choices, beginning with the 2012-2013 school year, each local and regional board of education will be required to create a student success plan for each student in grades six through twelve. Public Act 11-135 requires the plan to include a student's career and academic choices.

Revisions to Education Statutes

Public Act 11-136 revises several existing education statutes:

- **Genocide:** Existing law named "Holocaust education and awareness" as a subject the State Board of Education shall encourage boards of education to include in curricula. This topic was expanded to "Holocaust and genocide education and awareness."
- **Certification endorsement:** The Commissioner of Education may allow a certified teacher who holds an endorsement in elementary education and who is otherwise qualified, to teach a specialized course in grades kindergarten to eight.
- **Truancy:** Schools now must notify parents of their child's irregular attendance by telephone and by mail. This new requirement for written notice must include a warning that two unexcused absences from school in a month or five unexcused absences in a school year may result in a complaint filed with the Superior Court pursuant to existing law. If the parent of the truant child fails to attend the meeting required under law (a meeting between parents and school personnel to review the circumstances of the truancy), or otherwise fails to cooperate in solving the truancy problem, the superintendent of schools must file, within 15 calendar days of such parent's failure to cooperate, a written complaint to the Superior Court pursuant to existing law. On or before July 1, 2012, the State Board of Education will create definitions of "excused absence" and "unexcused absence" for use by school districts.
- **Public school information system:** A superintendent may now access information in the statewide public school information system regarding the statewide mastery examination for the limited purpose of determining examination dates, scores, and levels of student achievement for enrolled or transferring students.
- **World languages:** Under existing law, one or more world languages must be offered as a component of a public school program. As amended, American Sign Language must be included as a world language, and signed English is no longer an approved course.

- **Definition of an advanced placement course:** Existing law is amended to expand what qualifies as an advanced placement course. Each local and regional board of education must provide an advanced placement course program. Advanced placement course program will mean a program approved by the State Board of Education that provides college or university-level instruction for which high school credit is earned.

Charter Schools

Public Act 11-234 gives the State Board of Education authority to issue a charter school educator permit to qualified persons employed by a charter school as a teacher or administrator who do not hold initial educator, provisional educator, or professional educator certification. Qualification criteria are set forth in the Public Act. Not more than 30% of the total number of administrators and persons providing instruction or pupil services may hold the charter school educator permit during a school year.

The charter school educator permit authorizes the holder to serve as an administrator or teacher in a charter school and may be renewed by the Commissioner of Education for good cause upon the request of the state charter school governing council employing the holder at the time the charter for the school is renewed. In addition, any administrator holding a charter school educator permit is authorized to supervise and conduct performance evaluations of any person providing instruction or pupil services in the charter school that such administrator is employed. Charter school educator permit holders are considered members of the union, if one exists, and participate in the Teacher Retirement System.

Accountability Report Card

Public Act 11-109 provides that the select committee of the General Assembly that has cognizance of matters related to children maintain an annual report card that evaluates state policies and programs that promote the goal that all children grow up in a stable,

safe, and healthy living environment. The report card will be available by January 15, 2012.

Child Day Care and School Readiness

Section 144 of Public Act 11-61 requires the Commissioner of Education to collaborate with the Commissioner of Social Services to develop a plan to coordinate child day care services administered by the Department of Social Services and the school readiness programs administered by the SDE into a coordinated early care and education program.

Juvenile Detention Facilities

Pursuant to Public Act 11-51, the local or regional board of education for the school district in which a juvenile detention facility is located will be responsible for providing general education and special education and related services to children detained in the facility. However, tuition may be charged to the local or regional board of education where the child would otherwise be attending school. The State Board of Education will be responsible for any costs in excess of such local or regional board of education's (where the child would otherwise be attending school) prior year's average per pupil costs. If the district in which the child should be attending school cannot be identified, the district in which the facility is located is responsible for spending up to the per pupil cost, and then is reimbursed by the State Board of Education for costs exceeding the per pupil amount.

School Construction

Public Act 11-61 modifies the school construction grant application process. It also allows the Department of Construction Services to waive any deficiencies found in an audit of a school building project upon determining the waiver is in the state's best interest.

Under Section 100 of Public Act 11-57, the Department of Construction Services, along with the SDE, shall provide a school building project grant for a diversity school in any district that has one or

more schools with a minority population of greater than 25% of the district-wide average for the same grade, and that has demonstrated a good-faith effort to correct existing racial disparity in the district. The grant will reimburse such districts for 80% of the reasonable cost of any capital expenditure for the purchase, construction, extension, replacement, leasing, or major alteration of diversity school facilities, including any expenditure for the purchase of equipment.

Early Childhood Educator Requirements

Public Act 11-54 revises the requirements for early childhood educators, creating qualification requirements that will be implemented in three phases. Various qualification requirements are imposed for the period prior to July 1, 2015, from July 1, 2015 to June 30, 2020, and on or after July 1, 2020. The detailed qualification requirements for each of these phases are described in the Public Act.

Review of the Cost of State-Mandated Special Education Requirements

Special Act 11-9 requires the Commissioner of Education to conduct a comprehensive review of state-mandated special education requirements, including examining who is best suited to bear the burden of proof in determining whether a student is eligible for special education services.

Donations of Equipment to the State Technical High School System

Public Act 11-114 permits the Commissioner of Education to indemnify and hold harmless, subject to several limitations, any person who makes a gift of equipment with a fair market value in excess of \$1,000 to the SDE or the State Technical High School System for instructional purposes.

Autism

Pursuant to Public Act 11-4, the Department of Developmental Services Division of Autism Spectrum Disorder Services, which designs and implements

services and programs for state residents with an autism spectrum disorder, may create autism-specific early intervention services for any child under the age of three diagnosed with an autism spectrum disorder. The Division may also implement education and transition services for individuals age three to twenty-one diagnosed with an autism spectrum disorder.

Intellectual Disability

Public Act 11-16 requires the term “intellectual disability” to be used in place of the term “mental retardation” in the General Statutes.

Special Education Evaluation

Public Act 11-235 amends existing law to require school districts to complete the special education evaluation and determination process “without delay.” The bill also expands the membership of the Advisory Council for Special Education.

School Health Assessments and Vaccinations

Under Section 2 of Public Act 11-179, the list of health professionals who can perform school health assessments is expanded to include a legally qualified practitioner of medicine, an advanced practice registered nurse (“APRN”), or a physician assistant (“PA”) stationed at any military base. Section 13 of Public Act 11-242 allows PAs and APRNs to provide certification that a student has met vaccination requirements and allows the Commissioner of Public Health to waive the schedule for active immunizations for recognized nationwide shortages.

International Teacher Permits

Public Act 11-179 also revises existing law regarding international teacher permits. Under existing law, the SDE shall, upon the request of a local or regional board of education, issue an international teacher permit in a subject shortage area pursuant to Section 10-8b, provided the conditions for issuance of such permit are met. These international teacher permits shall be issued for one year and may be renewed for a period of up to one year, upon the request of the

local or regional board of education, provided that the teacher whose permit is to be renewed maintains, at the time of such renewal, a valid J-1 Visa issued by the United States Department of State at the time such permit is renewed. This provision replaces the existing provision that a permit cannot be renewed more than twice in the two years subsequent to the initial issuance.

Misrepresentation as a Board Certified Behavior Analyst

Public Act 11-228 makes it a crime for persons to represent themselves as a “board certified behavior analyst” (BCBA) or a “board certified assistant behavior analyst” (BCABA) unless certified by the Behavior Analyst Certification Board. Violators may be fined up to \$500 or imprisoned for up to five years, or both.

Carbon Monoxide Detectors

Pursuant to Public Act 11-248, the State Fire Safety Code regulations will require carbon monoxide detection and warning equipment in all public and nonpublic school buildings. The Act, which is effective July 1, 2011, sets forth specific requirements for the Fire Safety Code regulations pertaining to installing, testing, and maintaining carbon monoxide detectors in public and nonpublic school buildings, including the prohibition against any battery-operated (or plug-in with battery backup) warning equipment for buildings for which a permit for new occupancy is issued on or after January 1, 2012.

School Buses

Under existing law, drivers must stop ten feet from a school bus displaying flashing red lights, and failure to do so may result in a fine. Effective July 1, 2011, Public Act 11-255 allows towns and school boards to install monitoring cameras on school buses to record motor vehicles that violate this law. This new law also permits police to issue a summons to a driver who fails to stop based on the recorded image, and the

images can be used as evidence against the driver. In addition, Public Act 11-130 exempts any new school bus inspected and then registered between August 1 and the start of the next school year from further inspection until September of the following school year.

Korean War Veterans

Public Act 11-17 expands a board of education’s authority to award high school diplomas to veterans who left high school prior to graduation by allowing for issuance of such diplomas to veterans of the Korean hostilities.

LEGISLATION SPECIFIC TO POSTSECONDARY INSTITUTIONS

Access to Postsecondary Education

All persons domiciled in the state of Connecticut are considered in-state students for tuition purposes. Public Act 11-43 expands the category of persons entitled to be classified as in-state students. If a person other than a nonimmigrant alien resides in Connecticut, attended and completed at least four years of high school level education in Connecticut, graduated from a high school in Connecticut, and is registered or is enrolled at a public institution of higher education in Connecticut, the person is eligible for in-state tuition benefits upon filing an affidavit with the higher education institution stating that an application to legalize immigration status has, or will be, filed.

Student Athletes

Public Act 11-92 requires that, commencing January 1, 2012, any institution of higher education that offers athletic scholarships must make available certain information to student athletes by placing a hyperlink on the front page of its official athletic website entitled “Student Athletes’ Right to Know.” The Public Act describes the information that must be provided.