

What Act 10 Means for School Districts

By Annemarie K. Harr, Esq.

Earlier this year, Act 10 of 2016, which permits local government agencies to invest public funds in certain types of financial products which previously not permitted, was signed into law.



Annemarie K. Harr

Act 10 expands the types of investments permitted for these agencies to include commercial paper, bankers' acceptance and negotiable certificates of deposit. These additional investments can allow school districts to more fully diversify their investments. However, with these new types of investments, school districts can also be faced with potential financial risks as their ability to invest expands.

Though the Act may have been intended to cover school districts, it is important to note that the Act did not amend portions of the School Code which relate to district investments and money management. Under Sections 621-623 of the School Code, in order for a school district to deposit funds, the deposit instrument must meet certain collateralization requirements. Currently, there are no known negotiable certificates of deposit that meet these requirements and therefore, if the amount of a negotiable certificate of deposit exceeds \$250,000 (the limit of FDIC deposit protection), any investment of district funds would be in direct violation of the School Code under 24 P.S. §§ 6-621-623. Additionally, the Act does not amend Section 440.1 of the School Code which covers the investment of school district funds. That section of the School Code does not include the types of investments outlined in Act 10. As such, there is an argument that because Act 10 does not amend the School Code, school districts are still held to the investment standards contained therein.

School districts or CTCs wishing to expand their investment options under Act 10 should do so in direct consultation with their solicitor to ensure compliance with all governing statutes.

Update: Anti-Hazing Law

By Hobart J. "Hobie" Webster, Esq.

On July 25, 2016, a new law took effect in Pennsylvania. Act 31 of 2016 amended the Anti-Hazing Law of 1986 to now cover secondary schools and their students in grades 7-12.



Hobart J. Webster

Originally, the Law only extended to institutions of higher education; however, the amendments add a definition of secondary school to the Law. Under the Law, "any public or private school within this Commonwealth providing instruction in grades 7 through 12 or any combination of those grades" must now:

1. Adopt a written anti-hazing policy which includes rules prohibiting hazing;
2. Provide a copy of its written anti-hazing policy, rules, penalties and program of enforcement to all athletic coaches at the school;
3. Post its written anti-hazing policy on its publicly accessible website.

As the school year begins, it is necessary that school districts recognize their new responsibilities under the law.

Hazing is defined under the Law as, "any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a person or which willfully destroys or removes public or private property for the initiation or admission into or affiliation with, or as a condition for continued membership in, any organization. The terms shall include,

but not be limited to, any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, liquor, drug or other substance, or any other forced physical activity which could adversely affect the physical health and safety of the individual, and shall include any activity which would subject the individual to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct which could result in extreme embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual, or any willful destruction or removal of public or private property. For purposes of this definition, any activity as described in this definition upon which the initiation or admission into or affiliation with or continued membership in an organization is directly or indirectly

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We're Speaking . . .

- Attorneys Jocelyn Kramer and Aimee Zundel will be presenting at PBI's Exceptional Children Conference in Lancaster, PA on October 7. Ms. Kramer will be speaking on the topic of "Discipline and Students with Disabilities" while Ms. Zundel's topic will be "When Does a Procedural Violation Result in Substantive Denial of FAPE?"
- Attorney Rebecca Heaton Hall will be lecturing at NBI's Pennsylvania Special Education Law seminar on October 18, 2016 on the following topics: "Successfully Handling Disciplinary Actions for Special Needs Students" and "Ensuring Successful Due Process Procedures."
- Attorney Ira Weiss will be the keynote speaker at the National Association of Pupil Services Administrators Annual Conference on October 31, 2016 in Pittsburgh.

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conditioned shall be presumed to be "forced" activity, the willingness of an individual to participate such activity notwithstanding."

The Law requires that schools adopt procedures to enforce the rules against hazing and penalties for the violation of such rules. The Law specifically states that schools may, as a penalty, impose fines, withhold diplomas or transcripts or impose probation, suspension or expulsion upon students who violate the school's anti-hazing policy, and may even result to disbanding sports' teams or groups that operate on school property or under the sanction of the school. Furthermore, any penalties imposed by the school shall be in addition to criminal penalties that may be imposed on violators.

As the school year begins, it is necessary that school districts recognize their new responsibilities under the law. Please do not hesitate to contact WBK for questions regarding compliance with these requirements, including the revision of your current policies and student handbook to include this important update.

New Federal Guidance to Schools

by Aimee Rankin Zundel, Esq.

On July 26, 2016, the U.S. Department of Education issued non-regulatory guidance on students experiencing homelessness and their rights under the Every Student Succeeds Act (ESSA). That guidance can be found here – <http://www2.ed.gov/policy/elsec/leg/essa/160240ehcguidance072716.pdf>



Aimee Rankin Zundel

Also on July 26, 2016, the Office of Civil Rights issued a "Dear Colleague Letter" concerning students diagnosed with attention-deficit/hyperactivity disorder (ADHD) and the protections they are entitled to under Section 504. OCR explains why students with ADHD may be presumptively eligible for a 504 Plan. Link to the DCL here – <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201607-504-adhd.pdf>

Should you have any questions regarding how newly-issued guidance should inform policy or procedure at your school, please do not hesitate to contact the attorneys at WBK.

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This issue of In Brief: School Law Update is meant to be informational and does not constitute legal advice. Should districts wish legal advice on any matter, they should contact their legal counsel or request a legal opinion from Weiss Burkardt Kramer, LLC.

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