

Act 55 of 2017: Omnibus School Code Amendments

by Ira Weiss

On November 6, 2017, Act 55 of 2017, which amended the Pennsylvania School Code of 1949, became law. Act 55 provided new requirements and guidelines affecting school districts on all fronts.



Ira Weiss

In regard to amendments to programs involving student services, changes span from the implementation of Keystone Exams, which now is delayed as a graduation requirement until the 2019-2020 school year, to the application of the new truancy laws, which were applicable to public and charter schools in the 2017-18 school year, and are now applicable to non-public schools beginning in the 2018-19 school year. Additionally, schools must now serve “school food program meals” to students regardless of whether the student has paid or can pay, unless the parent has directed the school to withhold the meal. Under the recent

The recent amendments include several provisions that directly affect school board members and their meetings.

amendments, schools must make at least two (2) attempts to contact parents to have them apply for participation in the free/reduced lunch program when money for five (5) or more meals are owed, must communicate directly with the parent, not with the student, regarding lunch money owed, may not publicly identify students who owe meal money, may not assign chores to students who owe meal money, and are prohibited from discarding a student’s meal once served because the student owes meal money. Another amendment requires that beginning in the 2018-19 school year, a school

must include prevention of opioid abuse in its grades 6-12 health curriculum. Teachers who will be teaching courses involving this curriculum are required to receive professional development on the mandated instruction. Finally, the new law requires the Pennsylvania Department of Education (PDE) to develop a new state plan for the implementation of Every Student Succeeds Act (ESSA) and submit to the General Assembly for review.

With respect to operations, approval for new school building construction or reconstruction applications, i.e. Plan Con applications, is suspended for the 2017-2018 school year. It is important to note that this amendment went into effect retroactively and affects any submissions made on or after July 1, 2017. It should also be noted that under the amendments, schools are now permitted to substitute an annual safety and security drill in place of one of its fire drills scheduled to take place within 90 days of the start of a new school year.

The recent amendments include several provisions that directly affect school board members and their meetings. First, the new law requires training for school board members beginning with the 2018-2019 school year. During the first year of their first term, newly elected or appointed school board directors must receive a minimum of four (4) hours of training made available through PDE and at no cost to the school district or school director. Additionally, within one (1) year after each re-election, school board directors must receive a minimum of two (2) hours of advanced training. This requirement also applies to trustees of charter schools. Also, the time-period for a school board to hold a public meeting to consider the retention or renewal of a superintendent or assistant superintendent prior to the expiration of their current contract

continued on next page

WBK Welcomes Two New Associates

Theresa M. Miller-Sporrer advises and represents school districts as a solicitor with a focus on labor and employment law. Tere joins WBK following five years’ experience in complex and multi-district litigation before the state, federal and appellate courts in numerous Pennsylvania counties as well as the Western District of Pennsylvania and Superior Court. She was also formerly an Assistant District Attorney in Crawford County.



Theresa Miller-Sporrer

Victor S. Kustra’s practice will focus on school and education law, along with serving as solicitor to school district clients. Vic is a recent graduate of the University of Pittsburgh School of Law. He previously served as a Law Clerk at Weiss Burkardt Kramer and as a judicial intern for the Pennsylvania Superior Court under the Hon. John L. Musmanno, and for the Court of Common Pleas of Lawrence County under President Judge Dominick Motto.



Victor Kustra

Omnibus School Code Amendments, *continued*

has been reduced from 150 days to 90 days. A school board's failure to act extends the superintendent or assistant superintendent's contract for a one-year period only.

Perhaps most notably, the amendments now permit school entities to suspend or furlough professional school employees "assigned to provide instruction directly to students" for economic reasons in order of their performance on annual performance based evaluations. This was not a permissible basis for reduction of staff under previous law and these provisions are not subject to bargaining. In order to avail itself of these provisions, a school entity must suspend an equal percentage proportion of administrative staff. The school entity may choose to exempt 5 administrative staff positions from this requirement, one of which must be the Business Manager or equivalent position. There is a waiver procedure contained in the amendments which is available if the school entity's operations are sufficiently streamlined; however, there must be a showing that the additional reductions would cause harm and these reductions must be approved by the members of the State Board of Education. Additionally, the school entity must pass a resolution of reduction by a majority of all school directors not less than sixty (60) days prior to the adoption of the final budget. The resolution is required to contain certain information and should be drafted under the direction of the school entity's solicitor in order to be legally compliant.

Suspensions under the new amendments must be based on performed evaluations within the area of certification required for the employee's current position. Those employees with two (2) unsatisfactory ratings will be suspended first, followed by those with one (1) satisfactory rating and one (1) unsatisfactory rating, those with one (1) proficient or distinguished and one (1) needs improvement and those with two (2) proficient or distinguished ratings. Within each of those categories, employees are suspended in inverse order of seniority. Compensation is not a factor in determining who is to be suspended. When employees are recalled, they are to be reinstated beginning with those two (2) proficient or distinguished ratings and working backwards through the categories, ultimately ended with those with two (2) unsatisfactory ratings.

Any collective bargaining agreement negotiated from this point forward cannot nullify these new furlough provisions and any agreement or contract which is currently in effect and which contains language prohibiting the suspension of professional employees for economic reasons shall be discontinued in any new or renewed agreement or contract or during the period of status quo following the expired contract.

In addition to the notable amendments discussed above, there were many more amendments made. The entirety of the amendments to the School Code can be found at the following: <http://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?Year=2017&slnd=0&body=H&type=B&bn=178>. Should you have questions regarding any amendment or the duties and responsibilities imposed upon you by the new amendments, please contact your solicitor or the experienced attorneys at WBK!



We're Speaking...

- Attorneys from Weiss Burkardt Kramer will be presenting at a Tri-State Area School Study Council workshop for school administrators on February 20, 2018. Stay tuned for more information on this event!
- Attorney Ira Weiss will be speaking to the Western Region Pennsylvania Association of Career & Technical Administrators at the Parkway West Career and Technology Center on March 23, 2018. Mr. Weiss will present on the topic of the recent amendments to the School Code.
- Attorneys Rebecca Hall and Annemarie Harr will be presenting on the topic of "504 Plan Legal Essentials" for the National Business Institute's seminar in Pittsburgh on April 30, 2018. Ms. Hall will present on "How to Determine Eligibility for a 504 Plan" and "Evaluating Students Under 504 Plans" while Ms. Harr will address the topic of "How to Draft a Personalized 504 Plan and Documentation to Include."

Weiss Burkardt Kramer, LLC

445 Fort Pitt Boulevard Suite 503 Pittsburgh, PA 15219
www.wbklegal.com Phone: (412) 391-9890 Fax: (412) 391-9685

Ira Weiss	iweiss@wbklegal.com
M. Janet Burkardt	jburkardt@wbklegal.com
Jocelyn P. Kramer	jkramer@wbklegal.com
Laura M. McCurdy	lmccurdy@wbklegal.com
Aimee Rankin Zundel	azundel@wbklegal.com
Lisa M. Colautti	lcolautti@wbklegal.com
Nicole W. Williams	nwilliams@wbklegal.com
Rebecca Heaton Hall	rheatonhall@wbklegal.com
Claude C. Council	councilaw@verizon.net
Hobart J. Webster	hwebster@wbklegal.com
Annemarie K. Harr	aharr@wbklegal.com
Theresa M. Miller-Sporrer	tmillersporrer@wbklegal.com
Victor S. Kustra	vkustra@wbklegal.com
Jessica Quinn-Horgan	jqhorgan@wbklegal.com

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.

Copyright 2018, Weiss Burkardt Kramer, LLC