



Buelow Vetter

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COVID-19 Legislation: Key Provisions for Public Schools

On April 15, 2020, Governor Evers signed 2019 Wisconsin Act 185 into law. This Legal Update focuses on the key provisions related to public school districts.

1. **Accountability Reports** The Department of Public Instruction (DPI) is prohibited from publishing school and school district accountability reports in the 2020-21 school year.

2. Student Assessments

a. **Administration of Assessments.** State statutes requiring certain assessments to be administered annually do not apply in 2019-20.

b. **Educator Effectiveness.** Student performance on the above assessments may not be considered in evaluating teachers and principals in the 2019-20 school year under the educator effectiveness evaluation system.

3. Virtual Instruction: Reports and Guidance

a. By November 1, 2020, each school board shall report^[1] to the DPI all of the following:

i. Whether or not virtual instruction was implemented during the public health emergency, and if so, in which grades;

ii. If virtual instruction was implemented, the process for implementing the virtual instruction;

iii. For each grade level, the average percentage of the 2019-20 school year curriculum provided to students, including curriculum provided in-person and virtually;

iv. Whether anything was provided to students during Summer 2020 to help students learn content that they missed because of the public health emergency, and, if so, what was provided to students;

v. Recommendations for best practices for transitioning to and providing virtual instruction when schools are closed;

vi. Any challenges or barriers the school board faced related to implementing virtual instruction during the public health emergency;

vii. By position type, the number of staff members who were laid off during the public health emergency;

viii. The number of lunches the school board provided during the public health emergency;

ix. The total amount by which the school board reduced expenditures during, or because of, the public health emergency in each of the following categories: utilities; transportation; food service; personnel (including expenditure reductions resulting from layoffs); and contract terminations.

b. By January 1, 2020, the DPI shall compile and submit the above information to the appropriate standing committees of the Legislature.

4. Full-Time Open Enrollment Applications Notwithstanding requirements in Wis. Stat. § 118.51 (Wisconsin's full-time open enrollment statute) to the contrary:

a. The deadline for a parent to submit an open enrollment application to a nonresident district is May 29, 2020;

b. The deadline for the nonresident school board to send a copy of the application to the student's resident district is June 1, 2020;

c. The deadline for a resident school board to send a copy of the student's IEP to the nonresident district is June 8, 2020;

d. The nonresident school board may not act on any open enrollment applications before June 1, 2020;

e. The nonresident school board must notify the applicant of whether the application has been accepted or denied by July 2, 2020;

f. The resident school board must notify the applicant of whether the application has been accepted or denied by July 9, 2020;

g. The parent must notify the nonresident school board of the student's intent to attend the nonresident school district in the 2020-2021 school year by July 31, 2020, or within 10 days of receiving notice of acceptance if the student is selected from a waiting list;

h. Each nonresident school board that has accepted a full-time open enrollment application shall report the name of the student to the resident school board by August 7, 2020;

i. By June 5, 2020, the resident school board must provide to the nonresident school board: any expulsion findings and orders pertaining to the student; a copy of any pending disciplinary proceeding involving the student; a written explanation of the reasons for the expulsion or pending disciplinary proceeding; and the length of the term of the expulsion or possible outcomes of the pending disciplinary proceeding.

j. The DPI must provide parents requesting reimbursement under 118.51(b) (low income assistance) an estimate of the amount of reimbursement the parent will receive if the student attends school in the nonresident school district in 2020-21 by June 12, 2020.

5. Personnel Record Requests During the public health emergency, an employer is not required to provide an employee's personnel records within 7 working days after an employee makes a request to inspect his or her personnel records, nor is the employer required to provide for inspection of the records at a location reasonably near the employee's place of employment during normal working hours.

6. Employee Trust Funds

a. Rehired Annuitants in Critical Positions. A Wisconsin Retirement System (WRS) participant who is hired during the public health emergency declared on March 12, 2020, by executive order 72, may elect to not suspend his/her retirement annuity or disability annuity for the duration of the state emergency if all of the following conditions are met:

i. At the time the participant terminates his or her employment with a participating employer, the participant does not have an agreement with any participating employer to enter into a contract or to provide employee services for the employer; and

ii. The position for which the participant has been hired is a critical position.

b. Break in Service Requirement. The current 75-day break in service requirement does not apply if: (1) at least 15 days have elapsed between the termination of employment with a participating employer and becoming a participating employee; and (2) the position for which the participant is hired is a critical position.

c. Health Insurance and Leaves of Absence. For the purposes of group health insurance coverage offered by the Group Insurance Board, if an employee who was on a leave of absence returns from leave during the public health emergency, and the employee has not resumed active duty for at least 30 consecutive calendar days during the public health emergency declared on March 12, 2020, then the employee is deemed to have ended or interrupted the leave of absence on March 12, 2020.

[1] The DPI has indicated that it will provide school districts with a user-friendly form to complete.

If you have any questions about this Legal Update or other COVID-19-related issues, please contact Alana Leffler at aleffler@buelowvetter.com or 262-364-0267 or your Buelow Vetter attorney.