



Alerts

Four New Laws That Illinois School Districts Should Have on Their Radar

October 30, 2017

Hinshaw Alert

Several Illinois laws enacted in 2017 — some of which already have become effective, and others for which the effective date is coming soon — will have a significant impact on school districts in the state. Following are some highlights and suggestions on measures districts might take to make sure they comply with the laws and, where relevant, realize their maximum benefit.

Student Record Requests

A law that became effective September 22, 2017, changed the due dates for school district responses to requests for student records. It provides that a school now has 10 business days (changed from 15 school days) to respond to a records request and an additional five business days if needed due to:

1. records are stored other locations;
2. need to collect a substantial number of specified records;
3. categorical request requiring an extensive search for responsive records;
4. unable to locate with initial search and need additional time;
5. unduly burdensome request or interference with the operations of the school district; or
6. need for consultation, with another public body or school district or among 2 or more components of a public body or school district having a substantial interest in the determination or in the subject matter of the request.

The school district and record requestor may also agree to a timeframe for delivery.

Action Item: Schools should notify staff responsible for responding to records requests of this change in response time and, to the extent necessary, update any policies or internal guidelines that might otherwise reference the time frame for responding to a records request.

Expulsion of Preschool Aged Students

In an ongoing effort to minimize school exclusions, strengthen opportunities for students to be successful in school, and address data regarding the disparate impact of school exclusion procedures, and extend the benefits of SB 100 (which seeks to reduce the use of exclusionary school discipline practices and inequities in application) to populations it might not otherwise reach, the School Code was amended, effective January 1, 2018, to prohibit the expulsion of preschool age students attending an Illinois State Board of Education (ISBE) grant funded program (e.g. Preschool for All) for "persistent and serious challenging behaviors." These students may, however, be transitioned to another setting that is better able to meet the child's needs. Any such transition must be planned and involve parents, and will warrant prior consultation with the district's problem solving and/or Child Find teams.

Documented intervention efforts within the program and via access to community resources, with parental consent, are required prior to considering a transition to another setting as well. Temporary removals remain an option for preschool students who pose a serious safety threat, provided intervention and support services are provided and the student may return to the program.



Licensed child care facilities similarly must ensure intervention efforts are made and documented to assist struggling preschool students, and these could include referrals to local school districts for Child Find purposes.

Action Item: School districts and licensed child care facilities should keep an eye out for regulations required to be developed for supplemental rules that may apply to implementation of this law.

Chronic Absenteeism

A law effective January 1, 2018, adds a section to the Illinois School Code to require every school district, charter school or alternative school, or any school receiving public funds, to collect data on chronic absences and develop support services to engage chronically absent students and their families. The law encourages school districts to also provide a system of support for at risk students.

The Act defines "chronic absence" as absences that total more than 10 percent of the student attendance days of the most recent school year, excluding students out on home/hospital services. Both excused and unexcused absences are to be considered in the chronic absence determination.

Action Item: In reviewing the data and developing supportive services, keep in mind district Child Find obligations to students whose absences may be related to a suspected disability and refer the student accordingly.

Stay Put During Due Process Mediation and Notice of Procedural Safeguards

During a pending due process matter, or litigation related thereto, the parties may agree to voluntarily participate in mediation. A law that became effective August 18, 2017, amends the School Code to provide that if the parties do not agree to use mediation, or if mediation fails to resolve the dispute, stay put must remain in effect for 10 calendar days to allow parent (or student for whom parental rights have transferred) time to file for due process if s/he wishes to do so.

The Act also dictates that ISBE must update its procedural safeguards notices every two years.

Action Item: ISBE's July 2017 update posted in August preceded this legislative amendment. So school districts should prepare an amendment to the procedural safeguards notice provided to parents until such time as the ISBE next updates its document.