



**MA Council of School Attorneys Annual Meeting**

Members of your CLP team will be in attendance at the 2017 “Emerging Issues in Education Law” program and luncheon presented by the Massachusetts Council of School Attorneys on Friday, December 8, 2017.

The annual program is open to school attorneys and school administrators, and features presentations on current education law issues, and legal/legislative updates.

We hope to see you there!



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**Opioid Law and Verbal Screening Tools**

On March 14, 2016, Governor Charlie Baker signed into law An Act Relative to Substance Use, Treatment, Education and Prevention. Known as the “Opioid Law,” two sections of the law had a direct impact on public schools. The first amended MGL c. 71, s. 96, which, since 2014, has required public schools to have policies “regarding substance use prevention and the education of its students about the dangers of substance abuse.” The 2016 amendment provided districts with some assistance in developing these policies by amending the statute to require the DESE and the Department of Health (DPH) to collaborate to “provide guidance and recommendations to assist schools with developing and implementing effective substance abuse prevention and abuse education policies.” It also required districts to file these policies with DESE.

The other significant change involved the development and use of a verbal screening tool to screen students for substance misuse, annually, at two grade levels. M.G.L. c. 71, s. 97. Unlike the amendments to section 96, the substance abuse screenings were made subject to appropriation and implementation was delayed until the 2017-2018 school year. In its September, 2016 Guidance on School Policies Regarding Substance Use Prevention, DESE advised that schools districts were not required to implement the requirements of c. 71, s. 97, “unless and until funding is appropriated.” It also indicated that it was working with DPH on guidance regarding the verbal screenings. A year later, the 2017-2018 school year is in full swing, and no further guidance has been issued. There is a draft guide titled: “SBIRT in Schools: Guidelines and Recommendations” available on the mass.gov website but no final or definitive guidance or materials have been issued by DESE or DPH. (“SBIRT” stands for Screening, Brief Intervention, and Referral to Treatment).

WHAT YOU NEED TO KNOW:

- DESE, in consultation with DPH, is responsible for approving a verbal screening tool and recommending the grade levels appropriate for screening.
- Once notified by DESE, screenings must occur annually at two different grade levels.
- Parent(s)/guardian(s) of a student to be screened must be notified prior to the start of the school year, and may opt out of the screening at any time prior to or during the screening.
- Screening results must be reported to DPH (without identifying information and in a manner to be determined by DPH) within 90 days of the screening.
- There are important confidentiality and consent considerations staff will need to be trained on.
- Districts with alternative substance use screening policies may opt out of using the verbal screening tool approved by DESE by filling out a form provided by DESE.

CLP will continue to monitor this issue, and provide additional updates as available.

**Is A Beneficial Impact Subject To Impact Bargaining?**

The City of Boston implemented a voluntary mediation program for citizen complaints against police officers, and its two police unions filed a Charge of Prohibited Practice at the Department of Labor Relations (DLR) for failing to bargain over the decision and the impacts. In a DLR hearing officer decision the City successfully argued that it had the right to decide to have a mediation program for citizen complaints against police officers, but the hearing officer found that the City had not fulfilled its duty to bargain to impasse about the impact.

And what is the impact? The City’s mediation program impacts employee discipline because citizen complaints that are successfully resolved through the mediation process do not progress to an [Internal Affairs Division (IAD)] investigation and potential discipline. The DLR nevertheless ordered the rescission of the mediation program for any new citizen complaints against Union members until the City fulfills its bargaining obligation.