



SCHOOL LAW ADVISOR

newsletter

Back to School 2023 Newsletter

Dear Amber,

Consistent with our mission to continually provide relevant, timely, and important updates improve outcomes for schools and universities, and to protect the education for students and learners, **Miller, Tracy, Braun, Funk & Miller, Ltd.** provides this regular newsletter to schools and educational institutions.

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Recently Enacted
Illinois Laws



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Significant Recently Enacted Laws Causing Immediate Impact to Illinois Schools

Teacher Tenure: Public Act 103-500

Illinois Public Act **103-500** was signed by Governor Pritzker on August 4, 2023 with an immediate effective date. It revises tenure acquisition rules.

Tenure acquisition is set by statute, and is automatic for those who pass the relevant periods. The only changes to those first employed before July 1, 2023 are that accelerated tenure now takes only two excellent evaluations over three years instead of three, and the statute explicitly restricts acquisition to those with a professional educator license.

For those first employed as a full-time teacher after July 1, 2023, the tenure periods are:

- 3 consecutive school terms of service in which the teacher holds a Professional Educator License and receives overall annual evaluation ratings of at least "Proficient" in the second and third school terms;
- 2 consecutive school terms of service in which the teacher holds a Professional Educator License and receives 2 overall annual evaluations of "Excellent."

The statute continues to contain an accelerated tenure provision which allows teachers to earn tenure in two years if they previously earned tenure in another district and receive two excellent evaluation overall ratings in the employing district, but with the new accelerated tenure time of 2 years (instead of 3), the statutory section is redundant.

Additionally, the statute replaces the deadline to notify teachers of dismissal (for both reduction in force and dismissal purposes) to April 15 from the prior requirement of 45 calendar days before the end of the school year. Schools approaching dismissal and reduction in force in the spring should be mindful of contract or policy provisions which may

set an earlier date (such as 45 or 60 days before the end of the school year as required by prior versions of the statute).

Tenure acquisition rules are not waivable by the union and cannot be averted by the employer. Because tenure is a function of law, all districts are subject to accelerated tenure acquisition, whether they reach agreement with the union or not. School administrators should be mindful, when issuing evaluation summative ratings, of the impact on tenure acquisition.

Finally, because tenure acquisition is not a right conferred by the school (but rather by statute), schools do not need to notify staff of their tenure status and need not notify staff of which period and what rules are applicable. The effect of the change is to alter a right, and because it does so, the school has no duty to confer any additional right on any staff.

Restraint and Time-out: Public Act 103-175

Among the various changes contained in **PA 103-175**, the statute makes specific changes which extend certain requirements related to restraint/time out and threat assessment teams to special education cooperatives.

PA 103-175 extends the requirements for RTO oversight teams and plans to special education cooperatives and nonpublic programs located in the State of Illinois. The requirements apply to any special education cooperative that operates separate schools or programs within schools:

For the purpose of this subsection [(e) of Section 2-3.130] and subsection (f), “entity” means a school district, a special education nonpublic school approved under Section 14-7.02 of this Code and located in this State, or a special education cooperative to the extent the cooperative operates separate schools or programs within schools.

Subsection (e) requires school districts (and now also cooperatives and nonpublic programs in Illinois) to create a time out a physical restraint oversight team that includes, but is not limited to, teachers, paraprofessionals, school service personnel, and administrators to develop (i) an entity-specific plan for reducing and eventually eliminating the use of isolated timeout, timeout, and physical restraint in accordance with the goals and benchmarks established by the State Board and (ii) procedures to implement the plan developed by the team.

Also, this statute requires special education cooperatives to implement their own threat assessment teams, which may be in partnership with member districts:

A special education cooperative operating under a joint agreement must implement its own threat assessment procedure in full compliance with the requirements of this Section, including the creation of a threat assessment team, which may consist of individuals employed by the member districts. The procedure must include actions the special education cooperative will take in partnership with its member districts to address a threat.

Bullying Updates: Public Act 103-47

PA 103-47 is in effect for the 2023-2024 school year, and requires changes to all school district’s bullying prevention policies.

Among the changes, the statute expands the list of categories which may constitute bullying, including bullying on the basis of *physical appearance, socioeconomic status, academic status, pregnancy, parenting status, and homelessness*, in addition to the previously identified bases of actual or perceived race, color, religion, sex, national origin, ancestry age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic.

Also, policy requirements for parent notification have become more specific – including a specific timeline for parent or guardian notification:

Parents or guardians of all students involved in the alleged incident of bullying [shall be notified] within 24 hours after the school’s administration is made aware of the students’ involvement in the incident and discussing, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures. The school shall make diligent efforts to notify a parent or legal guardian, utilizing all contact information the school has available or that can be reasonably obtained by the school within the 24-hour period.

This notification also applies to “all threats, suggestions, or instances of self-harm determined to be the result of bullying” in the same time period.

Other Recently Enacted Laws Impacting Schools

Public Act 103-515

Public Act 103-525

The Consumer Price Index used to determine the minimum teacher salary for school year 2024-2025 will be published on September 30, 2023. For following years, it will be published annually by July 20th.

Effective immediately and through June 30, 2026, downstate annuitants may accept employment as teachers without impacting their retirement status, so long as employment is not within the school year during which service was terminated and that service does not exceed 120 paid days or 600 paid hours in each school year.

Public Act 103-143

Effective July 1, 2023, student identification cards must provide the contact information for the Safe2Help Illinois helpline, removing the prior option to have a local suicide prevention hotline number on the student identification card.

Public Act 103-348

Effective January 1, 2024, schools are required to maintain a supply of an opioid antagonist in any secure location where an individual may have an opioid overdose.

Public Act 103-311

An exception for closed session under the Open Meetings Act was added to allow public bodies to enter closed session to consider evidence or testimony presented to a school board regarding denial of admission to school events or property, provided the school board prepares and makes available for public inspection a written decision setting forth its determinative reasoning.

Public Act 103-100

Effective January 1, 2024, in order to receive State grants, a library or library system shall adopt the American Library Association's Library Bill of Rights which indicates materials should not be proscribed or removed because of partisan or doctrinal disapproval or, in the alternative, develop a written statement prohibiting the practice of banning books or other materials within the library or library system.

Public Act 103-181

Effective June 30, 2023, in transition planning, a school district shall provide both the student and parents/guardians with information about the district's career and technical education opportunities, as well as dual credit courses offered by the school district. Additionally, if the student is enrolled in a dual credit course for dual credit or for only high school credit, the student's participation in the course shall be included as part of the student's transition activities on their Individualized Education Program.

Public Act 103-430

Effective January 1, 2024, school boards may enter into contracts for transportation of students to and from school for contract lengths of up to ten years. All contracts for longer than five years which do not include the use of electric vehicles shall include a termination option after five years. A contract that utilizes a significant percentage of electric vehicles may be entered into for up to fifteen years if the contract relies on capital or infrastructure purchases or improvements that cannot reasonably be justified in a shorter-term contract.

Public Act 103-197

Effective January 1, 2024, when developing an IEP for a student, if the student needs extra accommodations during emergencies, including natural disasters or an active shooter situation, that accommodation shall be taken into account when developing a student's IEP.

Public Act 103-542

Effective January 1, 2024, certain mandatory trainings for school employees, including but not limited to, health conditions of students, social-emotional learning, cultural competency, warning signs of mental illness, trauma and suicidal behavior, domestic and sexual violence, expecting and parenting youth, exceptional students, educator ethics, and child abuse/grooming will be placed on five year training cycles.

Public Act 103-473

Effective January 1, 2024, prior to the effective date of an alternative school transfer, the parents or guardians shall receive information about the alternative school program including specific nature of the curriculum, number of students in the program, available services, disciplinary policies, typical daily schedule, and extracurriculars offered. The date the student will return to the regular educational program shall be included in the alternative education plan and may not be extended over the objection of the parents/guardians of the student.

Public Act 103-549

Effective August 11, 2023, if a tenured or non-tenured teacher submits their resignation fewer than thirty days prior to the first student attendance day, the school district may submit a referral to the State Superintendent within ten business days after denying the resignation. If submitting a referral, the school district must notify the teacher of the referral within five business days of submission. The district has additional documentation requirements which must be submitted with the referral.

Public Act 103-111

School districts may adopt policies to waive tuition costs for a non-resident pupil, if the pupil is a child of a district employee.

Non-public schools must perform a check of the Statewide Murderer and Violent Offender Against Youth Database, along with the Statewide Sex Offender Database. **This is included as a reminder that public schools also already have this requirement.**

Until June 30, 2028, applicants may apply to the State Board of Education for issuance of a 5-Year Short-Term Substitute Teaching License.

Public Act 103-539

Effective January 1, 2025, employers with fifteen or more employees must include the pay scale and benefits for a position in any specific job posting. This may be accomplished with a hyperlink to a publicly viewable page including the pay scale and benefits. The employer shall also announce, post, or otherwise make known all opportunities for promotion to all current employees no later than fourteen calendar day that the employer makes an external job posting. For third-party job postings, the third party is liable for the failure to include the pay scale and benefits unless it can prove the employer did not provide the necessary information.

We look forward to serving you and your educational institutions.

Sincerely,

Miller, Tracy, Braun, Funk & Miller, Ltd.

The contents of this newsletter, as well as any and all attached or linked documents, including websites, blogs, handouts, and legal updates, as well as any and all links on these pages should not be construed as legal advice. Individual problems or requests for information should be referred to legal counsel for an opinion based on facts specific to your inquiry.

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