

In Brief

NEW LAWS IMPACTING SCHOOL DISTRICTS

This publication provides a brief summary of bills that were recently signed into law and have an impact on school districts. Many of these new laws have labor and employment implications.

[Public Act 102-0717](#) (SB 3893) – Substitute Teacher Limit Extension to 120 Days, eff. 04/29/2022

Public Act 102-0717 increases the number of days that a substitute teacher may teach in a single school district to a maximum of 120 days for the 2021-2022 school year through the 2022-2023 school year. This change provides school districts with additional flexibility to use substitute teachers given the current staffing shortages and increases absences for COVID-19 reasons. Beginning with the 2023-2024 school year, the maximum will return to 90 days.

[Public Act 102-0729](#) (HB 4256) – Waiver of Teacher Evaluations, eff. 05/06/2022

Public Act 102-0729 allows school districts to waive evaluation requirements of certain licensed employees during the 2022-2023 school year if the Governor has declared a disaster due to a public health emergency. Specifically, a district may waive evaluation requirements for principals, assistant principals, or teachers in contractual continued service whose performances were rated as either “excellent” or “proficient” during the last school year in which the employee was evaluated. Note that many licensed employees received default performance evaluation ratings during either or both of the 2020-2021 and the 2021-2022 school year, so a district desiring to exercise this statutory waiver will need to determine if a particular licensed employee qualifies based on the rating they received the last time they were actually evaluated. Since waiver of evaluation requirements would constitute a change in working conditions, notice should be given to the appropriate teachers’ union and a district would need to meet to discuss if requested by the union.

Nothing in this law requires a school district to waive evaluation requirements during the 2022-2023 school year. School districts can evaluate licensed employees in accordance with their evaluation plans even if the Governor has declared a disaster due to a public health emergency.

[Public Act 102-0866](#) (SB 3914) – Mental Health Leave, eff. 05/13/2022

Public Act 102-0866 amends *School Code* Section 24-6 by adding “mental or behavioral health complications” as a basis for using sick leave. It also adds “mental health professional licensed in Illinois providing ongoing care or treatment to the teacher or employee” to the list of health care professionals that may provide a certificate to support use of sick leave after an absence of three (3) days or as may be deemed necessary in other cases.

[Public Act 102-0791](#) (HB 4994) – School Threat Assessment Procedure, eff. 05/13/2022

Public Act 102-0791 amends *School Code* Section 128/45 to provide that each year *prior to the start of the school year*, a school district shall file its threat assessment procedure and a list identifying the members of the school district's threat assessment team or regional behavior threat assessment and intervention team with a local law enforcement agency and the applicable regional office of education. The 2022-2023 school year is the first school year for this new filing requirement. School districts should take steps to ensure that the procedure and list is filed prior to the first day of school. Note that the requirement to implement a threat assessment procedure has been in place since August 2019.

This Public Act also clarifies an existing exemption under FOIA for “records concerning the work of the threat assessment team of a school district” stating that it is “including, but not limited to, any threat assessment procedure under the School Safety Drill Act and any information contained in the procedure.” 5 ILCS 140/7(1)(II).

[Public Act 102-0849](#) (SB 3651) – IMRF Workers Comp. Exclusion, eff. 05/13/2022

Public Act 102-0849 amends the Illinois Municipal Retirement Fund (IMRF) Article of the *Illinois Pension Code*, providing that, when assessing payment for any amount due under a provision requiring an additional employer contribution for earnings increases during an employee's final rate of earnings period, IMRF shall exclude reportable earnings increases resulting from periods where the member was paid through workers' compensation.

[Public Act 102-0667](#) (SB 1169) – Health Care Right of Conscience Act, eff. 06/01/2022

Public Act 102-0667 amends the *Health Care Right of Conscience Act* to again state that the Act does not protect against measures taken by any person, employer or entity to prevent the contraction or transmission of COVID-19 or any pathogens that result in COVID-19 or any of its subsequent iterations, or related enforcement mechanisms. This is similar to a bill originally signed into law on November 8, 2021, but that did not technically take effect until June 1, 2022. The difference is that Public Act 102-0667 expressly states that it applies to all actions commenced or pending on or after June 1, 2022, thereby giving it retroactive application.

This change to the Act was the result of challenges by employees to the Governor's COVID-19 vaccination or test mandate and exclusion from school for non-compliance with the mandate.

[Public Act 102-0752 \(SB 3936\) – School Helpline, eff. 01/01/2023](#)

Subject to funding, Public Act 102-0752 requires the Illinois State Police, in consultation with other agencies, to establish a program for receiving reports and other information from the public regarding potential self-harm or potential harm or criminal acts directed at school students, school employees, or schools in the state. The program must include a school helpline.

The law also further amends the *Juvenile Court Act of 1987* to broaden the permissible disclosure of juvenile law enforcement records to the appropriate school official only if the agency or officer believes that there is an imminent threat of physical harm to students, school personnel, or others (removing "who are present in the school or on school grounds").

It also amends FOIA to state that information prohibited from being disclosed under subsections (a) and (b) of Section 15 of the Student Confidentiality Reporting Act is exempt from disclosure in response to a FOIA request. 5 ILCS 140/7.5(mm).

Please contact any Robbins Schwartz attorney if you have questions about these new laws.