



# ***SAI Annual Conference 2017***

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# BoEE Mandatory Reporting – HF 217

- Mandatory reporting of disciplinary action against licensed, authorized, or certified employees in the following areas:
- (a) soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student;
- (b) falsifying student grades, test scores, or other official information or material; and
- (c) converting public property to the personal use of the school employee.
- (d) ***Being on school premises or at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming illegal drugs, unauthorized drugs, or alcohol.***

# **Sexual Exploitation by School Employees– SF 238**

- This bill adds those employees who hold authorizations under Chapter 272, as well as volunteers or contractors who have direct supervisory authority over the student involved.
- It covers full-time employees, part-time employees, and substitutes.
- The provisions of this **CRIMINAL CODE SECTION** do not apply if the employee does not have a license, certificate, or statement of professional recognition from the BoEE AND the student involved is not directly supervised by the employee and is not enrolled in the same district attendance center where the adult **is employed.**

# Collective Bargaining – HF 291

- **Mandatory Subjects – Base Wages**
- **Illegal Subjects-** Retirement systems, dues checkoffs, other payroll deductions for political action committees or other political contributions or political activities, insurance, leaves of absence for political activities, supplemental pay, pay, transfer procedures, evaluation procedures, procedures for staff reduction, subcontracting public service, intensive assistance procedures
- **Permissive Subjects – those not mandatory or illegal.**

# Collective Bargaining – HF 291

- **Binding arbitration – award restricted to the lesser of 3% or the increase in the consumer price index for all urban consumers in the midwest region.**

# Collective Bargaining – HF 291

- Collective bargaining agreements finalized prior to the Governor’s signing of HF 291 are effective.
- Boards may unilaterally agree to provide benefits OTHER THAN THOSE PROHIBITED BY STATUTE that are otherwise illegal subjects of bargaining.
- Be careful about “negotiating” an employee handbook with representatives from the collective bargaining unit which includes items which are illegal to bargain.

# Educator Employment Matters – HF 291

- Teachers and Administrators - a number of periods of time changed regarding hearings before the board as well as certain requirements for both the board and the employee to provide the other party documentation. (CHECK WITH YOUR ATTORNEY)
- (NOTICE DATES, such as April 30, May 1, and May 15 stayed the same).
- Temporary contracts may be issued for 6 months to a teacher and 9 months to an administrator.

# Educator Employment Matters – HF 291

- Probationary periods
- Teachers – Three years and not to exceed two years if the teacher has completed a probationary period in another Iowa district.
- The board MAY waive the probationary period for teachers, if the teacher has completed a probationary period in another district.
- Administrators – Three years. Period. NO WAIVER.



# Educator Employment Matters – HF 291

- Teacher Intensive Assistance –
- Teachers who previously received intensive assistance *for a particular standard or criteria* SHALL NOT be entitled to intensive assistance a second time & and SHALL be subject to the consequences on the next slide.
- IT IS NOT CLEAR AS TO WHETHER THE DISTRICT MAY VOLUNTARILY OFFER INTENSIVE ASSISTANCE A SECOND TIME IN THIS SCENARIO.

# Educator Employment Matters – HF 291

- Teacher intensive assistance –
- Following an intensive assistance program, if the teacher does not complete the program OR meet the standard or criteria that was the basis for the program, the district has one of only 3 options:
- 1) Terminate the teacher immediately;
- 2) Terminate the contract at the end of the school year; or,
- 3) Extend the contract for one year, but the contract **SHALL NOT BE RENEWED BEYOND ONE YEAR AND Chapter 279.15 provisions WILL NOT apply.**

# Educator Employment Matters – HF 291

- Teacher terminations (hearing is not subject to Chapter 21)
- If probationary, no cause is needed. The teacher may only request a conference, but that is not required.
- Non-probationary:
  - 1) Terminate the contract
  - 2) Terminate the contract with or without a paid or unpaid suspension
  - 3) Issue a one-year nonrenewable contract
- Adjudicator no longer involved in appeal!!

# Educator Employment Matters – HF 291

- **Teacher terminations**
- **“Just cause” for discharge of a teacher at any time under Iowa Code §279.27 now includes, but is not limited to a violation of the code of professional conduct and ethics of the board of educational examiners if the board has taken disciplinary action against a teacher, during the six months following issuance by the board of a final written decision and finding of fact after a disciplinary proceeding.**

# Educator Employment Matters – HF 291

- Administrator terminations (hearing is not subject to Chapter 21)
- If probationary, no cause is needed. The administrator may only request a conference, but that is not required.
- Even for non-probationary administrators, the bill states that the board may issue a one-year nonrenewable contract without going through the entire termination procedure.

# Educator Employment Matters – HF 291

- Administrator terminations (hearing is not subject to Chapter 21)
- Non-probationary:
  - 1) Terminate the contract
  - 2) Terminate the contract with or without a paid or unpaid suspension
  - 3) Issue a one-year nonrenewable contract
- Administrators may still appeal to an administrative law judge.

# Educator Employment Matters – HF 291

- Coaching terminations
- *Coaches do not have continuing contracts, even if they are employed by the district as a teacher.*
- The board may decide not to renew any coaches contract or terminate a coach without cause, even if the coach is a teacher in the district, as long as the termination is not based upon a Constitutionally protected reason.

# Educator Employment Matters – HF 291

- Public Records under Chapter 22.7 (addition):
- *The fact that the individual resigned in lieu of termination, was discharged, or was demoted as the result of a disciplinary action, AND the documented reasons and rationale for the resignation in lieu of termination, discharge, or demotion.* “Demoted” or “demotion” mean a change of an employee from a position in a given classification to a position in a classification having a lower pay grade.
- Under Iowa Code §22.15, employers must notify employees **IN WRITING** that applicable disciplinary records may become a public record.



# Categorical Funds Flexibility – HF 564

- Expands flexibility for at-risk/dropout, professional development and preschool, and requires the DE to give deference to a school district's authorized uses of funds in these areas.
- At-risk/dropout funds - Specifically adds counselors as an authorized expenditure, as well as programs intended to address high rates of absenteeism, truancy, or frequent tardiness.

# **Categorical Funds Flexibility – HF 564**

- **Preschool - Adds translation services, playground equipment and repair costs, food and beverages used by children in the program, safety equipment and facility rental costs as well as other direct costs that the board determines will enhance the program.**
- **Professional Development - Adds textbooks and curriculum materials as well as assessments if those items include professional development.**

# Categorical Funds Flexibility – HF 564

- **GENERAL FUNDS for Athletic Safety Equipment**
- **The bill further permits districts to transfer General Funds to the student activity fund for the purchase of athletic protective and safety equipment for any athletic contest or activity sponsored or administered by IHSAA or IGHSAU. This portion of the bill is RETROACTIVE to July 1, 2016.**

# Home Rule– HF 573

- States that school boards may exercise any broad and implied power, not inconsistent with Iowa law and administrative rules adopted by state agencies, such as the DE, related to the operation, control, and supervision of those public schools.

# Home Rule– HF 573

- However, school boards **SHALL NOT** have power to:
- (1) Levy any tax unless expressly authorized by the general assembly.
- (2) Charge elementary and secondary school students or the students' families a mandatory fee except as expressly authorized by the general assembly.
- (3) Adopt or enforce a policy that would unreasonably interfere with the duties and responsibilities of a local, state, or federal enforcement agency.
- If the power or authority of a school district conflicts with a city or county, the law of the city or county shall prevail.

# Home Rule– HF 573

- **More guidance to follow on Home Rule, so stay tuned.**
- **Do not get overly aggressive, especially as relating to PPEL or other expenditures without approval from your district's legal counsel.**

# Prohibiting of Monitoring Devices – SF 499

- *After many years of intense lobbying efforts*, we finally have a bill that prohibits school districts and other public agencies from using a monitoring device in a bathroom, shower facility, locker room, or other space where there is presumed privacy.
- This bill stated that any facility using these devices was required to stop by July 1, 2017.

# Gender Identity and Transgender Students

- **Transgender Students, Gender Identity, and use of Restrooms and Locker Rooms**
- **(1) Often parents or guardians are involved from the beginning. If not, consider the age of the student and the student's desire and relationship with parents/guardians in determining the extent of parental involvement**
- **(2) It is ok to offer for the student to use a private restroom or shower area, but not permissible to require the student to do so**



# Gender Identity and Transgender Students

- **Transgender Students, Gender Identity, and use of Restrooms and Locker Rooms (cont.)**
- **(3) It is perfectly reasonable to consider the privacy of other students as well to meet their privacy requests as long as the transgender student or student who identifies with a sex other than assigned at birth is permitted to use restroom or locker room of choice**

# Gender Identity and Transgender Students

- **(4) ON a separate but related issue, ensure staff members use names and pronouns requested by the student (legal names would stay the same on permanent records)**

# Iowa Cases

- *In re A.W. vs. Urbandale CSD, Heartland AEA, and Iowa DE*
- **Facts:**
- Family filed a due process complaint against the Iowa Department of Education, Urbandale CSD, and Heartland AEA under the Individuals with Disabilities Act (IDEA), arguing the student should have received special education services and been placed on an IEP.
- The family had the student tested multiple times, including an independent evaluation in 2014 that found the student may have dyslexia.
- While the student was not receiving special education services, she was receiving more intensive instruction, under a “multi-tiered system of supports” approach (MTSS), including weekly tutoring over one summer.

# Iowa Cases

- *In re A.W. vs. Urbandale CSD, Heartland AEA, and Iowa DE*
- **Decision:**
- Administrative Law Judge Christie Scase declaratory ruling found, in pertinent part:
  - 1) The DE shall not require and the AEA and District shall not employ criteria that make a finding of disability under the IDEA contingent upon the existence of a significant or severe discrepancy between the child's performance and age or grade-based standards.

# Iowa Cases

- *In re A.W. vs. Urbandale CSD, Heartland AEA, and Iowa DE*
- **Decision:**
- Administrative Law Judge Christie Scase declaratory ruling found, in pertinent part:
  - 2) The DE shall not require and the AEA and District shall not employ a definition of special education for purposes of determining whether a child needs special education as a result of a disability that excludes instruction adapted in content, methodology, or delivery to meet the needs of the child; merely because the instruction is within the capacity of general education.

# Iowa Cases

- *In re A.W. vs. Urbandale CSD, Heartland AEA, and Iowa DE*
- **Decision:**
- Administrative Law Judge Christie Scase declaratory ruling found, in pertinent part:
- 3) The family is entitled to reimbursement of out-of-pocket expense incurred to procure a Barton reading tutor for A.W. during the period between May 22, 2014 and August 16, 2016, payable by the DE.
- 4) The family is entitled to an appropriate award of attorney fees, pursuant to federal law, payable by the DE.

# Iowa Cases

- *Recent Iowa Administrative Law Special Education Decision*
- **Decision:**
- The DE is appealing the decision in district court.
- Urbandale CSD and Heartland AEA have chosen not to appeal the decision.

# Federal Cases

- *Endrew F. v. Douglas County School District, (U.S. 2017).*
- **Facts:**
- Colorado autistic student, Endrew F., had behavioral issues in school.
- After four years in public school, the parents determined his academic and functional progress had stalled, so they moved him to a private school and sought reimbursement from the school district.
- 
- The 10<sup>th</sup> Circuit Court of Appeals decided in favor of the school district, noting that the district only needed to show that the student's progress toward his goals was "merely more than de minimis."
- The family appealed to the United States Supreme Court.



# Federal Cases

- *Endrew F. v. Douglas County School District, (U.S. 2017).*
- **The United States Supreme Court's decision:**
- The Supreme Court overturned the 10<sup>th</sup> Circuit Court of Appeals's decision and rejected the “merely more than de minimis” standard.
  
- **Factors considered:**
- (1) The school district's educational program for Endrew largely carried over the same educational goals and objectives from one year to the next. Chief Justice Roberts noted that the lack of change indicated that Endrew “ was failing to make meaningful progress toward his aims.”

# Federal Cases

- *Andrew F. v. Douglas County School District, (U.S. 2017).*
- **Factors considered:**
- (2) “For children with disabilities, receiving instruction that aims so low would be tantamount to ‘sitting idly . . . Awaiting the time when they were old enough to drop out,’” Chief Justice Roberts quoting the Supreme Court’s 1982 decision in *Board of Education of the Hendrick Hudson Central School District v. Rowley*.
- (3) “The IDEA demands more. It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”

# Federal Cases

- *Endrew F. v. Douglas County School District, (U.S. 2017).*
- **Factors considered:**
- (4) Chief Justice Roberts noted that the school district placed too much emphasis on the Rowley decision's reference to IEPs conferring "some educational benefit."
- (5) Roberts shared that the "reasonably calculated" standard WILL NOT require an "ideal" IEP, but one that "must aim to enable the child to make progress."

# Federal Cases

- *Endrew F. v. Douglas County School District, (U.S. 2017).*
- **Factors considered:**
- (6) For special ed. students in a general ed. classes, an IEP should be reasonably calculated “to enable the child to achieve passing marks and advance from grade to grade.”
- (7) If general ed. classes are not “a reasonable prospect,” the educational program must be “appropriately ambitious in light of [the student’s] circumstances.”

# Federal Cases

- *Endrew F. v. Douglas County School District, (U.S. 2017).*
- Factors considered:
- (8) Finally, Chief Justice Roberts commented: “Of course this describes a general standard, not a formula. But whatever else can be said about it, this standard is markedly more demanding than the ‘merely more than de minimis’ test applied by the 10<sup>th</sup> Circuit.”