Carl Weiss, Executive Director
Metropolitan Detroit Bureau of School Studies
391 College of Education, Wayne State University
Detroit, Michigan 48202

Re: Legislative Updates

Dear Mr. Weiss:

This letter serves as a brief overview of thirteen laws passed and signed by former Governor Snyder as the legislative session ended in December 2018. In particular, it outlines a series of laws passed by the legislature intending to strengthen school safety by developing a school safety commission and an office of school safety, both housed within the Department of State Police. These new laws require school districts to engage with these new entities in a variety of ways, including developing liaison relationships and adhering to plans and protocols developed by these bodies. Additionally, the laws amend the Open Meetings Act ("OMA") to allow a board of education to consider security planning and provides that Emergency Plans are not subject to the Freedom of Information Act ("FOIA").

This letter also includes information about additional laws that may impact school districts.

I. SCHOOL SAFETY

Comprehensive School Safety Plan Act. Public Act 548 (formerly House Bill 5828), Signed by Governor Snyder on December 27, 2018

Effective Date: March 28, 2019

This Act requires a School Safety Commission to be created within the Department of State Police, to be established on April 15, 2019, or upon the abolishment of the School Safety Task Force created under Executive Order No. 2018-5.

The School Safety Commission must review model practices for determining school safety measures and make recommendations to the Office of School Safety 90 days after its creation and every 2 years thereafter. Members will review at least the development and evaluation of school
safety model practices; a review of the statewide school safety information policy and emergency operations plans; the role of school safety liaisons; the emerging trends in school safety technology; the baseline safety requirements for schools; and the baseline hardening measures for new and existing schools.

The Commission must include in its membership the following, or their designees: the director of the Department of State Police, the superintendent of public instruction, the director of the Department of Health and Human Services, and school safety task force members appointed by the governor under Executive Order No. 2018-15. The Act provides for further appointments of members by the governor when the initial members’ 4-year terms expire, and designates varying lengths of time for each appointment. The Act further provides for member vacancies, removal, officer election, quorum by majority, open meeting requirements, and requires that members not be paid, only reimbursed. All information obtained by the Commission is confidential and not subject to FOIA.

**School Safety Liaison to Commission. Public Act 549 (formerly House Bill 5829), Signed by Governor Snyder on December 27, 2018**

Effective Date: March 28, 2019


It requires school districts to designate a liaison to work with the School Safety Commission created under the new comprehensive school safety plan act and to work with the new Office of School Safety created by law, to be housed in the Department of State Police. The liaison must be someone employed by the school district or who is assigned to regularly and continuously work under contract in a school operated by the school district. The liaison must work with the Commission and the School Safety Office to identify model practices for determining school safety measures.

**Office of School Safety and Competitive School Safety Grants. Public Act 435 (formerly Senate Bill 982) Signed by Governor Snyder on December 20, 2018**

Effective Date: March 21, 2019

This Act establishes an office of school safety within the Department of State Police. The Act also establishes competitive school safety grants.

The director of the Department must appoint the director of the School Safety Office in accordance with civil service procedures. The Department of State Police must also provide the staff and resources necessary to operate the office of school safety.

The Office of School Safety must work with the Michigan Department of Education (“MDE”) to create model practices for school safety, including assessing building safety with local law enforcement agencies. It must develop and offer, or contract to develop and offer, school safety
trainings to school staff. It must work with MDE to apply for federal funds related to school safety, including funding for alternative schools or programs. The office of school safety must create and administer a competitive school safety grant program for public schools, nonpublic schools, school districts, and intermediate school districts to improve school safety and security.


Effective Date: March 21, 2019

This Act adds section 1308(b) to the Revised School Code, 1976 PA 451.

The Act requires school districts, intermediate school districts, and public school academies to establish emergency operations plans with law enforcement agencies. It requires that, beginning in the 2019-2020 school year, school districts and law enforcement must work together every other year to conduct review of emergency operations plans and vulnerability assessments, or of the statewide school safety information policy, whichever is applicable:

- School districts must establish emergency operations plans, with public input, for each of the school buildings it operates. The board of education must adopt the plan by majority vote and according to OMA requirements.
  - The plans must include guidelines and procedures addressing at least: school violence and attacks, threats of school violence and attacks, bomb threats, fire, weather-related emergencies, intruders, parent and pupil reunification, threats to a school-sponsored activity (on or off school premises), teacher training on mental health and pupil and teacher safety, improvement to school building safety, active violence protocol, continuity of operations after an incident, and a vulnerability assessment.
  - “School building” is defined as buildings intended to be used for instructing pupils, including additions to existing buildings, and a recreational or athletic structure intended to be used by pupils.
  - School districts may adopt and implement a statewide school safety information policy under section 1308, if it meets the requirements of this emergency operations plan.

- School districts must notify MDE no later than 30 days after it adopts the emergency operations plan, and no later than 30 days after each completed emergency operations plan review.

- MDE shall report noncompliant districts at least annually to the office of school safety within the department of police. The office of school safety will work with local law
enforcement with jurisdiction over the noncompliant district to notify the governing body of the school district’s noncompliance.

- Emergency operations plans under this Act, any information provided to the department about development and regular review of the plans, and any information provided to state police is confidential and not subject to disclosure under FOIA.

Consultation with Law Enforcement Prior to Construction or Renovation. Public Act 437 (formerly Senate Bill 990) Signed by Governor Snyder on December 20, 2018.

Effective Date: March 21, 2019


It requires school districts to consult on school safety with the relevant first responder law enforcement agency before undergoing new school building construction or major renovation projects. The Act defines “school building” as one intended for instruction of pupils or a recreation or athletic structure intended to be used by pupils.

Threat/Criminal Act Reporting. Public Act 670 (formerly Senate Bill 991) Signed by Governor Snyder on December 28, 2018

Effective Date: March 28, 2019

This Act amends section 3 of the Student Safety Act, 2013 PA 183.

The Act establishes a safety reporting system and hotline for any potential harm or criminal acts directed at schools.

The Department of the Attorney General must consult with the Department of State Police, Department of Health and Human Services, and MDE to establish a program for receiving reports and information from the public about harm or criminal acts directed at schools or its students or employees. Requirements include the following:

- The program must include a hotline to take calls, to remain open 24 hours, 365 days.
  
  o The Department of Technology must handle the process of establishing the hotline, including issuing requests for proposals. The Department of State Police may submit a proposal. The vendor chosen must comply with all requirements under the Act, including confidentiality.

  o Once the hotline is in operation, all calls directed to any other state-run school violence hotline must be directed to the one established by this Act, and other state-run school violence hotlines in operation before December 13, 2013 must be disconnected within 6 months of the operation of the hotline established by this Act.
• The Department of the Attorney General is responsible for operational and administrative oversight.

  o The program must provide for a means to review all information submitted to the hotline and direct those reports and information, as well as any analysis of a potential threat, to local law enforcement officials and school officials.

  o The program must provide a means to determine and evaluate the effectiveness of local responses.

  o The Department must ensure appropriate training to program personnel in crisis management, including recognizing mental illness and emotional disturbance; human resources including community resources for providing mental health treatment; and any other matters the Department determines is relevant to the administration and operation of the program.

• A report submitted to the hotline is considered a report to law enforcement and the vendor must maintain it for 1 year, subject to confidentiality requirements of the Act.

• The Department of the Attorney General must ensure that any hotline information suggesting a psychiatric emergency is directed to the appropriate county’s community mental health services program psychiatric crisis line.

• The Department of the Attorney General must develop a source of information on community mental health resources and contacts, and it must notify schools and law enforcement of this resource. The notice must include the departmental recommendation that school and law enforcement, upon investigating a case and determining that mental illness or emotional disturbance is or may be involved, utilize this information in aiding subjects and their parents or guardians.

• At least two times per year, a governing body of a school district must provide current emergency contact information to the Department of State Police of at least 1 school official to ensure that school officials receive relevant hotline information. If the governing body provides more than one contact, it must also provide the days and times each school official is available to receive hotline information.

Cyberbullying. Public Act 457 (formerly House Bill 5017), Signed by Governor Snyder on December 24, 2018

Effective: March 27, 2019

This Act amends the Criminal Code, 1931 PA 328.

The Act criminalizes cyberbullying. Cyberbullying is defined as posting a message or statement in a public media forum about any other person if (1) the message or statement is intended to place
a person in fear of bodily harm or death and expresses an intent to commit violence against the person and (2) the message or statement is posted with the intent to communicate a threat or with knowledge that it will be viewed as a threat.

Violations are punishable as follows:

- One violation is a misdemeanor punishable by up to 93 days in prison, up to a $500 fine, or both.
- A second violation is a misdemeanor punishable by up to 1 year in prison, up to a $1,000 fine, or both.
- A violation involving a continued pattern of harassing or intimidating behavior that causes serious injury to a victim is a felony punishable by up to 5 years in prison, up to a $5,000 fine, or both.
- A violation involving a continued pattern of harassing or intimidating behavior that causes death to a victim is a felony punishable by up to 10 years in prison, up to a $10,000 fine, or both.

Open Meetings Act ("OMA") Exception for Closed Session. Public Act 467 (formerly Senate Bill 882), Signed by Governor Snyder on December 24, 2018

Effective March 27, 2019

This Act amends section 8 of the Open Meetings Act, 1976 PA 267.

This section of the OMA lists reasons for which a public body may meet in closed session.

In addition to the existing reasons for closed session, the Act amends this section by adding that a school board may meet in closed session to consider security planning to address existing threats or prevent potential threats to the safety of students and staff.

II. EMPLOYMENT

Minimum Wage. Public Act 368 (formerly Senate Bill 1171), Signed by Governor Snyder December 13, 2018

Effective: March 29, 2019

This Act amends the Improved Workforce Opportunity Wage Act, 2018 PA 337.

It raises the general minimum wage (excepting tipped workers) from the current $9.25 per hour by 20 cents to $9.45 per hour. The increase is less than the $10 per hour minimum wage originally proposed by the citizen-backed initiative but changed by the lame duck legislature. The citizen ballot proposal also called for a $12 per hour minimum wage by 2022, which was pushed back by
lawmakers to 2030, with a provision for a five-cent increase, or $12.05 per hour minimum wage by that date.

This law significantly changed the ballot initiative regarding the issue, adopted by Michigan legislature in September 2018.

**Sick Leave. Public Act 369 (formerly Senate Bill 1175), Signed by Governor Snyder December 13, 2018**

Effective: March 29, 2019

This Act amends various provisions of the Paid Medical Leave Act, 2018 PA 338.

It requires employers with 50 or more employees to provide their employees with paid leave that can be used for “personal or family health needs, as well as purposes related to domestic violence and sexual assault.” Covered employers must award workers one hour of paid sick leave for every 35 hours worked, with an annual cap of 40 hours. The voter-initiated paid sick time initiative, provided that workers would accrue one hour of paid sick leave for every 30 hours worked, with an annual cap of 72 hours for larger businesses and 40 hours for small businesses.

This law also significantly changed the ballot initiative regarding the issue, adopted by Michigan legislature in September 2018.

**Retirees Employed by Third-Party. Public Act 482 (formerly Senate Bill 1225), Signed by Governor Snyder on December 26, 2018**

Effective: March 29, 2019

This Act amends the Public School Employees Retirement Act, 1980 PA 300.

Public school retirees who are employed by a third-party or as independent contractors must forfeit pension benefits if they perform core services at a reporting unit, such as a school district or a public school academy. This Act specifies that “core services” do not include custodial, food, or transportation services. This ensures that public school retirees who are employed by a third party or as independent contractors are allowed to perform custodial, food, or transportation services at a public school without forfeiting their pension benefits.

Public school retirees who are employed directly by a reporting unit must forfeit pension benefits if they earn more than 1/3 of their final average compensation in a calendar year. PA 482 will not impact this subset of public school retirees.

**III. SCHOOL ACCOUNTABILITY**

**A-F School Ratings. Public Act 601 (formerly House Bill 5526), Signed by Governor Rick Snyder on December 28, 2018**
MDE has requested the newly elected attorney general to review this law, and has delayed implementation based on concerns about the Act’s potential conflict with federal law.

This Act amends the Revised School Code, 1976 PA 451.

It directs MDE to develop, by August 1, 2019, a statewide accountability measurement system. This system requires MDE to assign an annual letter grade, A-F, to each public school based on a number of indicators, including student proficiency and growth in Math and English, English Language Learner students’ growth toward proficiency, high school graduation rates, and a school’s academic performance compared to other schools with similar student demographics. The system also requires development of assigning a ranking to each public school for indicators including rate of chronically absent pupils, rate of participation on school assessment tests, and student subgroup performance compared to other students in the same subgroup.

IV. OTHER LAWS OF INTEREST

Budget Amendment. Public Act 588 (formerly House Bill 4991), Signed by Governor Snyder on December 28, 2018

Effective: December 1, 2018 (retroactive)

This Act amends the Income Tax Act, 1967 PA 281.

It directs earmarked funds from the School Aid Fund to road improvements and environmental cleanup.

V. BILLS THAT DID NOT BECOME LAW

Student Growth Remains at 40% of Evaluation. House Bill 5707 & House Bill 6401 – FAILED

HB 5707 and HB 6401 would have changed the law regarding teacher evaluations and evaluations of school administrators. The current law requires that for the 2015-2016, 2016-2017, and 2017-2018 school years, 25% of each evaluation is based on student growth and assessment data, but beginning in the 2018-2019 school year, the law requires that 40% of each evaluation is based on student growth and assessment data. HB 5707 and HB 6401 would have changed the law to maintain the 25% requirement. Because neither bill passed the state senate, each evaluation will be based on 40% student growth and assessment data, beginning in the 2018-2019 school year.

Annuities. House Bill 5230 & House Bill 5231, Vetoed by Governor Snyder on December 27, 2018

HB 5230 and HB 5231 would have allowed, rather than required, variable annuities to be offered to plan participants (and continue to require fixed annuity options to be offered to participants). It would have required the State Treasurer to select two or more annuity providers, prescribe what the State Treasurer would have to consider when selecting an annuity provider, require annuity
options to allow participants the ability to purchase an annuity while employed by a reporting unit, and require the Office of Retirement Services to verify the information submitted by an annuity provider.

Should you have any further questions or concerns regarding the matters discussed herein, please do not hesitate to contact our office.

Sincerely,

COLLINS & BLAHA, P.C.

Gary J. Collins

William J. Blaha