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Mandate Relief to Illinois School Districts

One of the lesser known aspects of the school funding legislation signed into law by Governor Rauner on August 31, 2017, (known as SB 1947, or Public Act 100-465) is that it provides much-needed relief from some of the mandates historically imposed upon school districts statewide. Importantly, the School Code previously permitted waivers of mandates only when they were necessary to stimulate innovation or improve student performance. Under the new law, a waiver may be granted if a school district believes that criteria will be satisfied **or** if it can demonstrate that it can address the intent of the mandate in a more effective, efficient, or economical manner.

Public Act 100-465 also makes changes to the waiver process. Previously, waivers of School Code mandates were considered by the full General Assembly. However, the legislation establishes a panel of four legislators who will now have the opportunity to first review waiver requests. If three or more of the

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legislators object to the request, then it goes directly to the full legislature for consideration. But, if fewer than three object, the waiver is transmitted to ISBE which can approve, deny, or modify the waiver. ISBE's failure to act on a request will constitute approval of the waiver. If ISBE denies it, the request will go to the full legislature just as requests did previous to this new law.

The legislation also provides relief with regard to some specific School Code mandates which have been the frequent subject of waiver applications: driver training and physical education.

Driver Training. Formerly, a school district needed to be granted a waiver in order to contract with a driver training school. Under the new law, a school district will be able to contract with a commercial driver training school to provide both the classroom instruction part and the practice driving part, or either one, without having to request a modification or waiver of administrative rules of the State Board of Education. Rather, the school district will only need to approve a contract with a commercial driver training school after a public hearing.

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Physical Education. Schools have been required to provide physical education five days per week. Under the new law, however, a school board may determine the schedule or frequency of physical education courses, provided that a pupil engages in a course of physical education for a minimum of three days per five-day week. The legislation also permits additional discretion to excuse students, on a case-by-case basis, from physical education requirements. SB 1947 provides that, in addition to the existing bases by which students in grades 11 and 12 may be excused from physical education, a school board may also, on a case-by-case basis, excuse pupils in grades 7 through 12 who participate in an interscholastic or extracurricular athletic program from engaging in physical education courses. Lastly, waivers from all physical education mandates are still available; however, the law now permits the waiver to remain in place for five years, instead of just two years with a limit of two renewals.

If you have questions about this topic, or any provision within SB1947, please contact one of our attorneys in Oak Brook (630.928.1200) or Flossmoor (708.799.6766).

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