



New Mandates for Accommodations for Students

Public Act 100-163 amends the Illinois School Code beginning on January 1, 2018 to require that school districts make feminine hygiene products available at no cost to students in the bathrooms of all school buildings serving students in grades 6-12. Please note that the term “feminine hygiene products” includes both tampons and sanitary napkins. School districts impacted by this new statute should consider what type of dispensary system will be needed to comply in addition to considering which employees will be responsible for stocking and restoring the products and how frequently these items will be replenished. While there are not yet any regulations regarding this topic, we advise that these items should be inspected and restocked on a daily basis.

Public Act 100-029 requires school districts to make breastfeeding accommodations available if there are students who need them. These accommodations include, but are not limited to: (a) access to a private and secure room, other than a

restroom, to express breast milk or breastfeed an infant child which has a power source for the use of a breast pump if necessary, (b) allowing a breast pump and other related equipment used to express breast milk, (c) access to a place to store breastmilk safely and (d) providing the student with a reasonable amount of time to express breastmilk or to breastfeed. Given these requirements, we believe that a private room with a lock should be made available to the student and that providing access to an area in the nurses' office or a locker room where other persons may be present is not sufficient. In addition, as the statute makes clear, a breastfeeding child must be permitted to be on grounds for purposes of feeding if requested by the student. Lastly, we would recommend that there be a dedicated refrigerator in a secure area under the supervision of an employee for the student(s) to store expressed breast milk. If the same refrigeration unit is going to be used for multiple students, an identification system should be created so that each individual student can clearly mark the expressed breast milk that belongs to her.

Public Act 100-029 provides further that the nursing students must not suffer academically based upon the choice to

breastfeed. Specifically, the student must not incur an academic penalty as a result of her decision to utilize the accommodations required by law and she must be provided the opportunity to make up any work missed due to utilizing these accommodations. It is our suggestion to work with any student who needs to breastfeed or express breastmilk to develop a schedule that will allow the student to utilize these accommodations with as little disruption to educational instruction as possible or to provide instructional materials that the student may be able to review while expressing breast milk. Please recognize, however, that the nature of the accommodations will almost undoubtedly lead to some missed class time and that the student may need to utilize the accommodations multiple times during the school day.

The last component of the new law is a requirement that there be a grievance procedure for alleged violations of the statute. This process is the same as that utilized under the current sex equity requirements, which should already exist in Board Policy. This existing policy can simply be amended to permit complaints alleging a violation of the breastfeeding accommodations of the School Code.

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If you have questions about these topics, please contact one of our attorneys in Oak Brook (630.928.1200) or Flossmoor (708.799.6766).