

To: CSIU Superintendents and Career Technical School Directors

From: Lynn Cromley, Assistant Director/Chief Administrative Officer

RE: Act 39 of 2018 and Act 44 of 2018 Update

Date: August 14, 2018

As school districts prepare for the 2018-2019 school year, there are some changes to the PA School Code, enacted as Act 39 of 2018, and new requirements due to the School Safety and Security law, enacted as Act 44 of 2018, that **will or may** require action. These changes/requirements are outlined below:

- 1. Fire and Emergency Evacuation Drills - Within 90 days of the beginning of the 2018-2019 school year**, and every school year thereafter, school entities **must** conduct one school security drill in each school building in *lieu of a required fire drill*. After 90 days of the commencement of each school year, school entities **may** conduct two security drills per school year in each school building in lieu of two fire drills. There are additional reporting requirements as well. Please see attached PDE Basic Education Circular on this topic for more information.
- 2. Executive Sessions** – School Boards are now permitted to hold an executive session to plan, review or discuss matters related to school safety if a public discussion would be reasonably likely to impair the effectiveness of such measures; or create a likelihood of jeopardizing the safety or security of an individual or a school, including a building, public utility, resource, infrastructure, facility or information storage system.
- 3. School Safety and Security- Act 44 of 2018** requires that ***no later than August 31, 2018***, each chief school administrator of a school entity must appoint a school administrator as the school safety and security coordinator. The coordinator is required to oversee all school police officers, school resource officers, school security guards and policies and procedures in the school entity and report directly to the chief school administrator. The coordinator must make an annual report to the board of directors (in executive session, not subject to Right to Know) by June 30, 2019, and each June 30 thereafter, and also needs to coordinate a biennial tour of the schools with the appropriate law enforcement agencies. *The PDE will be providing additional information on where to*

*report the contact information for the appointed school safety and security coordinator.*

Act 44 of 2018 also created a statewide School Safety and Security Committee (SSSC). No later than October 31, 2018, the SSSC will develop a survey to distribute to school entities to measure school safety and security throughout the Commonwealth. *School Entities will be required to complete the school survey no later than November 30, 2018, and submit a copy of a pre-existing school safety and security assessment (if completed within the last three years) to the SSSC along with the survey instrument.* 2

Act 44 of 2018 also *requires* school entities to provide *online mandatory employee training on school safety and security*. Training shall address situational awareness, trauma-informed education awareness, behavioral health awareness, suicide and bullying awareness, substance use awareness and emergency training drills, including fire, natural disaster, active shooter, hostage situation and bomb threat. School employees are *required* to complete a *minimum of three (3) hours of training every five (5) years. **More information will be forthcoming from PDE, including whether existing training requirements (suicide and bullying prevention) can satisfy some of this requirement.***

4. **Lunch Shaming-** Collection of Funds – With the enactment of Act 55 of 2017, provisions were put in place prohibiting schools from denying a school food program meal to any student who requests one but does not have the money to pay for the meal at the time of service or in his or her meal account (unless schools receive written direction from the student’s parent or guardian). Additionally, the 2017 provisions only permitted school communication regarding money owed for meals to be made directly to the student’s parent or guardian.

Act 39 of 2018 clarifies the provisions regarding collection of funds for school meals. If a student is enrolled in *grade 9 through 12*, the school district may require the schools to directly communicate with the student regarding a low balance or money owed for school meals if the communications are made individually and discreetly to the student by appropriate school personnel. It also clarifies that it does not constitute public identification or stigmatization of a student for a school to restrict privileges and activities of students who owe money for school meals if those same restrictions apply to students who owe money for other school-related purposes. *On July 27, 2018, the PDE issued an updated FAQ reflecting all requirements. See*

*attached. Boards should review their food services policies and administrative regulations to ensure compliance with all requirements.*

**5. Lead Testing** – Beginning with this 2018-19 school year, *and every school year thereafter*, school facilities where children attend school *may* be tested for lead levels in the drinking water. If excessive lead levels are discovered in any school facility, the facility must immediately implement a plan to ensure no child or adult is exposed to lead contaminated drinking water, and that alternative sources of drinking water are made available. In addition, the elevated lead levels must be reported to the Department of Education (PDE) and posted on their website. *If a school entity chooses not to test lead levels, the issue of lead levels must be discussed at a public meeting.*

**6. Third-Party Services** – New requirements are imposed on school employers (defined as “a board of school directors, an intermediate unit board of directors or an area vocational-technical board of directors”) seeking to enter into a contract with a for profit third party for non-instructional services. Such non-instructional services are defined as those “provided by a school employee whose terms and conditions of employment are *governed by a collective bargaining agreement* negotiated between the school employer and the exclusive representative of the employee and excluding any services provided by a professional employee, a substitute or a temporary professional employee”. Prior to entering into such a contract, the school employer must solicit applications from third parties and post the solicitations and applications on the school employer’s website.

The school employer shall require the third party to provide in its application:

- A minimum three-year cost projection to the school employer;
- Information concerning any violation of federal or state law or regulation by the third party, composite information about the criminal and disciplinary records of current employees of the third party who may perform the non- instructional services and information concerning any traffic violation or chargeable accident that occurred during the course of employment by an individual employee of the third party;
- Any additional information that the school employer deems appropriate.

The school employer will be required to conduct a minimum of one public hearing prior to a regularly scheduled board meeting to present to the public the selected proposal of a third party to perform the non-instructional services and to receive

public comment. The school employer must provide notice to the public of the date, time and location of the first public hearing on or before the initial date that bids to provide the non-instructional services are solicited or a minimum of thirty (30) days prior to the public board meeting, whichever provides a greater period of notice.

For a school employee whose employment is terminated due to the third party contract for non-instructional services, and who seeks employment from the third party during the effective date of the contract, the following shall apply:

- The third party shall give consideration to the school employee, which shall include an interview, when hiring any new employee for the same or a substantially similar position which the school employee held with the school employer.
- If requested by the third party, the school employer shall provide to the third-party information regarding the performance and employment duties of the school employee.

**7. Time and Manner of Adopting and Furnishing Textbooks and Supplementary Books** –Under the new law, a local board of school directors can now adopt new textbooks, materials and other curriculum *at any* regular board meeting, rather than just during the time frame of between April and August as previously required by Code.

**8. Suspension (Furlough) of Professional Employees** – A school entity must realign its professional staff so as to ensure that more senior employees are provided with the opportunity to fill any positions within the school entity for which they are certified and are being filled by less senior employees. This reinstates the “bumping rights” provisions that were in the Code prior to Act 55 of 2017. Click the link below for *PDE Frequently Asked Questions* on this topic for additional information:

[https://www.education.pa.gov/Teachers%20-%20Administrators/School%20Services/Pages/Suspension-\(Furlough\)-of-Professional-Employees--- Frequently-Asked-Questions.aspx](https://www.education.pa.gov/Teachers%20-%20Administrators/School%20Services/Pages/Suspension-(Furlough)-of-Professional-Employees---Frequently-Asked-Questions.aspx)

**9. Excuses from Attending School** –A school district may excuse a student from school attendance to participate in a musical performance in conjunction with a national veterans’ organization or incorporated unit for an event or funeral. The organization or unit must provide the student with a signed excuse detailing the date, location, and time of the event or funeral. The student must furnish the excuse to the school district prior to being excused.

10. **Penalties for Violating Compulsory School Attendance Requirements** – Act 39 of 2018 makes a clarification concerning when a citation may be filed against a child, or the parent  
or guardian of a child, who violates compulsory attendance laws. The educational entity must consult with the county children and youth agency prior to filing the petition.
11. **Keystone Exams** – The use of the Keystone Exams as a graduation requirement has been delayed for an additional year until the 2020-2021 school year.
12. **PlanCon** - The moratorium on the acceptance of new Plancon projects has been extended through the 2018-19 fiscal year.

Best wishes for a successful start of the 2018-19 school year. Please contact me if you have questions or require additional information at 570-523-1155, ext. 2316.