

**Education Alert**  
**March 2016**

**IMPACT OF MASSACHUSETTS' OMNIBUS SUBSTANCE ABUSE  
LEGISLATION ON SCHOOLS**

*For a discussion of these and other legal issues, please visit our website at [www.mhtl.com](http://www.mhtl.com). To receive legal updates via e-mail, contact [information@mhtl.com](mailto:information@mhtl.com).*

On March 14, 2016, Governor Charlie Baker signed into law House Bill, No. 4056, "An Act relative to substance use, treatment, education and prevention" ("the Act"). Several sections of the Act, which directly impact public schools, are summarized below.

Driver Education: The Act requires all driver education courses in high schools to include a module on the science of addiction and addictive substances, including the impact of psychoactive substances on the brain and the effect of these substances on operating a motor vehicle. This provision will go into effect on June 12, 2016.

Substance use prevention and abuse education policies: As before, all public schools must have a policy regarding substance use and prevention and educating students about the dangers of substance use. However, the Act now requires the Department of Elementary and Secondary Education ("DESE") to provide guidance on these policies and requires all school districts and charter schools to file these policies with DESE.

DESE has been charged with determining how school districts and charter schools will submit these policies. Until such direction issues from DESE, schools should await further guidance. As a note, by July 1, 2016, the Massachusetts Association of School Committees, the Massachusetts Association of School Superintendents and the Massachusetts Charter Public School Association will provide an update to DESE as well as several other entities on their ongoing efforts to ensure compliance with this requirement.

Substance Abuse Screenings: The Act states that each school district, including regional and vocational schools, and charter schools, by the 2017-2018 school year must utilize a verbal screening tool to screen pupils for substance abuse disorders. DESE will approve of the screening tool in conjunction with the Department of Public Health ("DPH"). Schools with alternative substance use screening policies may opt out of using the DESE screening tool on a form that DESE creates. The screenings will occur annually at two (2) grade levels. It is the responsibility of DESE to determine the grade levels for the screenings. Schools must notify parents of this screening at the beginning of the school year and parents may opt out their children from the screenings in writing.

**Education Alert  
March 2016**

The school district or charter school must report the de-identified results of the screenings to DPH within ninety (90) days of the screening. The information from the screenings will be confidential. The school staff member, to whom the information is disclosed, may not disclose the information without the prior written consent of the student or parent, including to other school officials, except in cases of emergency or otherwise required by state law. The information from the screenings will not be subject to discovery or subpoena. Any record of the disclosure that the school district maintains cannot include information identifying the student. There is no liability for implementing or failing to implement these screenings.

The Act states that this requirement for verbal substance abuse screenings is “subject to appropriations” in one part and then “required” in another part. Typically, when the term “subject to appropriation” appears in state legislation, it is presumed that the requisite appropriation must come from the state legislature, as opposed to an appropriation by the local government of a city or town to the school department. However, given the conflicting language, it is ambiguous whether school districts and charter schools are obligated to conduct and fund these substance abuse screenings or whether they are only subject to appropriations from the legislature. School districts and charter schools should await further guidance from DESE on this new requirement.

Concussion Education: The Department of Public Health’s bureau of substance abuse services must provide educational materials on the dangers of opiate use and misuse to individuals participating in the annual head injury safety program. This material must also be distributed in written form to all students participating in extracurricular activities prior to the commencement of their athletic seasons.

---

*If you have any questions about this issue, please contact Felicia Vasudevan or the attorney responsible for your account, or call (617) 479-5000.*

*This alert is for informational purposes only and may be considered advertising. It does not constitute the rendering of legal, tax or professional advice or services. You should seek specific detailed legal advice prior to taking any definitive actions.*

©2016 MHTL

914693