

Employment Practices Liability

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Lamont Issues Executive Order to Require Payment of School District Personnel, Including Those Already Laid Off, Through the End of the School Year, and Requires Negotiation of Transportation and Special Education Service Contracts

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On March 31, 2020, Governor Ned Lamont Issued an Executive Order (Executive Order 7R) requiring school districts to continue to employ or restore to employment if already laid off, and pay school staff who are directly employed by the local or regional board of education, including but not limited to teachers, paraprofessionals and other support staff, cafeteria staff, clerical staff, and custodial workers, to the greatest extent practicable.

Local and regional boards of education may require school staff to provide services during the period of closure to the extent consistent with state and federal laws, including any applicable Executive Orders, guidance, or public health recommendations, and shall not be required to continue such employment if the staff member secures other employment, or if the staff member would have been separated for reasons other than circumstances related to the COVID-19 pandemic. Nothing in this order shall affect the ability of the local or regional board of education to reduce the number of staff members prior to the time of the 2020- 2021 school year due to budget reductions or as otherwise necessary outside of the circumstances of the COVID-19 pandemic, in compliance with current legal requirements.

Executive Order 7R also states that School Districts should engage transportation providers and special education providers to determine increased costs in order to negotiate amendments with the goal of: (1) sustaining continuity of service when school resumes; (2) continuing (a) to make tuition payments to special education providers so that they may compensate their active employees and provide them health insurance and (b) to make

payments to transportation providers so that they may compensate their active employees and provide them health insurance; and (3) requiring the contracted company to attest and provide reasonable documentation of the fact that it is charging only the actual and reasonable cost of sustaining wage and health insurance payments for active employees and/or fleet while also engaging best effort is to avoid unnecessary costs. Such continued compensation and health insurance for staff or others providing special education and transportation services and employees shall be continued to the greatest extent practicable – whether full-time or part-time – at rates commensurate to those paid and provided immediately prior to the declaration of these public health and civil preparedness emergencies, whether or not services are actually or immediately rendered.

Robin Kallor is a partner at Rose Kallor, LLP. Rose Kallor, LLP regularly represents and advises private and public sector employers on matters pertaining to the employer-employee relationship, including the selection process, discrimination and harassment related issues and frequently conducts neutral workplace investigations. If you have questions about this legal update, please contact us at 860-361-7999. If you wish to receive future updates on labor and employment related topics, please contact Jacqueline Smith, Marketing and Creative Design Associate at jsmith@ccm-ct.org.

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