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k12 focus August 2018



MEETING THE NEEDS OF OUR SCHOOL DISTRICT CLIENTS SO THEY CAN FOCUS ON THEIR MISSION OF EDUCATING CHILDREN

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Recent Legislation Changes Landscape for Severance Agreements

Effective August 23, 2018, PA 100-1040 (formerly HB 4242) amends the *Local Records Act*. New Section 3c requires a school district to make specific public disclosures within 72 hours of approving a severance agreement with an employee or contractor found to have engaged in sexual harassment or sexual discrimination as defined by the *Illinois Human Rights Act* or Title VII of the *Civil Rights Act* of 1964. In such a case, the school district must publish on its website and make available to the news media for inspection and copying the following information: (1) the full name and title of the person receiving the severance payment, (2) the amount of the payment, (3) that the employee was found to have engaged in sexual harassment or sexual discrimination, and (4) the date, time, and location of the meeting at which the school board approved the agreement. The *Act* leaves the term “finding” undefined. It is unclear whether complaint manager reports or administrative charges

reports or administrative charges constitute “findings,” or whether “findings” are reserved to the school board’s determination.

The *Government Severance Pay Act* (PA 100-0895, formerly SB 3604) becomes effective on January 1, 2019. It requires that any contract or employment agreement that provides for severance pay for an officer, agent, employee or contractor of a unit of local government, including a school district, must include a provision that the amount of severance pay is limited to 20 weeks of compensation, and prohibited altogether in the event of termination for misconduct. “Misconduct” includes a conscious disregard for the employer’s interests, deliberate violation of reasonable standards of behavior, theft, property damage, negligence, chronic absenteeism or tardiness, willful violation of work rules, criminal conduct, abuse, and “other conduct.”



These new laws will significantly impact the timing of resignation agreements, and place considerable pressure on an employee to enter into an agreement early in the termination process to be eligible for a severance payment and, in some circumstances, possibly avoid a finding that would trigger the *Local Records Act*’s disclosure requirements.

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