

MASC Policy Newsletter

Michael J Gilbert, Field Director – Policy Development

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This policy newsletter will cover new legal requirements for the Pregnant Workers Fairness Act, ESSA guidance on military children and children in foster care, and address tweaks to policies on minutes, student activity accounts, and meal charging based on the advice of legal counsel.

Most individual policy changes are posted as Word documents on the “Updated/New Policies” page on the MASC website and in the MASC Policy Reference Manual which is also available on both the “Updated/New Policies” page as well as on the “Online Manuals” page on the MASC website.

Pregnant Workers Fairness Act in effect as of April 1, 2018

The Pregnant Workers Fairness Act amends state law to prohibit employment discrimination on the basis of pregnancy and pregnancy-related conditions, such as lactation or the need to express breast milk for a nursing child. It also describes employers’ obligations to employees that are pregnant or lactating and the protections these employees are entitled to receive. Generally, employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy-related conditions and have an obligation to accommodate pregnant workers.

The employer must accommodate conditions related to pregnancy unless providing the accommodation would cause significant difficulty or expense. When an employee requests an accommodation, the employer has an obligation to communicate with the employee in order to determine a reasonable accommodation in good faith. A reasonable accommodation is one that allows the employee to perform the essential functions of the job while experiencing a pregnancy-related condition, without undue hardship to the employer. The employer cannot require a pregnant employee to accept a particular accommodation, or to begin disability or parental leave if another reasonable accommodation would enable the employee to perform the essential functions of the job without undue hardship on the employer.

The employer cannot refuse to hire an applicant with a pregnancy-related condition, because of the condition, if an applicant is capable of performing the essential functions of the position with a reasonable accommodation. The employer cannot deny an employment opportunity or take adverse action against an employee because of the employee’s request for or use of a reasonable accommodation for a pregnancy-related condition. The employer cannot require medical documentation about the need for an accommodation if the accommodation request is for:

- more frequent restroom, food or water breaks;
- seating;
- limits on lifting no more than 20 pounds;
- private, non- bathroom space for expressing breast milk.

The employer must provide written notice to employees of the right to be free from discrimination due to pregnancy or a condition related to pregnancy, including the right to reasonable accommodations for conditions related to pregnancy, in a handbook, pamphlet, or other means of notice no later than April 1, 2018. This notice must also be provided to new employees at or prior to the start of employment and to any employee within 10 days of notification of pregnancy by the employee.

MASC recommends that School Districts add the term “pregnancy or pregnancy related condition” to these policies:

AC – Nondiscrimination

GBA – Equal Employment Opportunity

GCF – Professional Staff Hiring

JB – Equal Education Opportunity

JFBB – School Choice

Updated version of these policies can be found in the MASC Online Policy Reference Manual and MCAD Guidelines will also be posted on the MASC website.

ESSA requirements for Military Children and Children in Foster Care

Under the “Every Student Succeeds Act”, federal law requires school districts to make accommodations for both children of active duty military families and for children placed in foster care. The federal Department of Education and the Massachusetts Department of Elementary and Secondary Education have issued guidance in these areas. While not requiring school district policy, the guidance provides the opportunity to educate staff and community on compliance with law through policy guidance.

MASC has outlined a policy for each area based upon the published guidance:

JFABE – Education Opportunities for Military Children

JFABF – Education Opportunities for Children in Foster Care

These policies can be found on the MASC website and in the MASC Online Policy Reference Manual.

Student Activity Accounts – policy modifications to JJF

At the request of both the Department of Elementary And Secondary Education and the Mass. Association of School Business Officials, MASC has added paragraphs to policy JJF to ensure that school districts are complying with requirements related to inactive student activity accounts other than graduating class funds and that districts are also dealing with any deficits that are not timing related. It should be noted that the DESE audit guidelines in these areas may require School Committee action.

An updated version of JJF may be found on the MASC Website and in the Online Policy Reference Manual.

Minutes – modification to the Note on BEDG

While we don’t believe any action is needed by School Committees on this policy, we wanted to point out that documents that are used at a School Committee meeting become public records and MUST be retained as such by the Committee’s record custodian in accordance with the Commonwealth’s Municipal Record Retention Schedule which is available on the Secretary of State’s website. Since this is a note change, no action by the School Committee is necessary.

Meal Charging Policy EFD – modification to Delinquent Accounts/Collections language

We have made a modification to the language here based upon the advice of legal counsel. We have removed references to actions directed at students and added language that will result in referral of difficult accounts to the Superintendent for review.