

MANS&C

QUARTERLY

Massachusetts Association of Nonprofit Schools and Colleges

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e-newsletter

SUMMER 2010

PRESIDENTS' LETTER



Welcome to MANS&C's annual Summer E-Newsletter, which puts important information at your fingertips whether you're in the office, at home or on vacation. This issue focuses on several important new state and federal regulations that our institutions will be dealing with the coming months.

We are providing you with a handy checklist of the major requirements of the state's new anti-bullying law, which affects MANS&C member institutions as well as public schools, but in a more limited way. You'll also find an article on the new regulations governing the idling of motor vehicles on school grounds. And we've included an important update on the federal Environmental Protection Agency regulations involving lead paint, which will have a major financial impact on renovations or repairs to some of your campus buildings.

The current legislative session winds down to its closing on July 31 and, as you can see in our Legislative Report, MANS&C Legislative Counsel John J. Spillane has had several important victories in recent weeks on Beacon Hill. John will continue working on your behalf throughout the remaining days of the formal session and the subsequent informal session, which wraps up on December 31.

John's very able services at the State House are just one of the benefits of MANS&C membership. The MANS&C newsletter, web site and e-mail alerts keep members informed of developments that affect the financial well-being, tax-exempt status and historic independence of our institutions. They also provide helpful tools, informative articles and practical ideas that will help your institution form stronger bonds with your community, as well as with state and local officials.

Please feel free to contact us at any time with your questions, concerns or suggestions. Enjoy the rest of the summer!

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EPA Backs Off from Enforcing Certification Deadline for New Lead-Paint Regulations

The Environmental Protection Agency (EPA) announced recently that it will delay enforcing some elements of a new lead-paint regulation affecting renovations and repairs to buildings built before 1978.

The agency said it will delay enforcement of certification requirements for renovation and repair firms until Oct. 1 of this year, due to the fact that many have been unable to obtain government-approved training in time. Action will not be taken against individual renovation workers, as long as they have applied for or are enrolled in training classes by September 30.

The EPA Renovation, Repair and Painting Rule still requires strict adherence to lead-safe work practices, however, including special equipment filters and a ban on open flames. In addition Renovation, Repair and Painting-certified contractors must abide by certain work practices, including:

- › Posting signs in the work area
- › Covering the ground with plastic, and closing and covering ducts, windows and doors
- › Picking up paint chips
- › Using a HEPA vacuum to clean walls and floors
- › Dust sampling and cleaning verification

The regulations apply to housing and all buildings frequented by children under the age of six for more than 6 hours per week per child. The certification requirements cover a wide range of workers, including school maintenance staffs, siding contractors, carpenters, handymen, plumbers, electricians, insulators, weatherization techs, HVAC contractors, demolition workers and anyone else who disturbs painted surfaces.

For more information about the new regulations, go to <http://www.epa.gov/lead/pubs/toolkits.htm>.

Anti-Bullying Law Checklists for Nonprofit Schools

The state's new anti-bullying law (Chapter 92 of the Acts of 2010), signed by Gov. Patrick on May 3, is considered the strictest in the nation.

Although public school incidents prompted the legislature to pass the measure, many provisions of the law also apply to nonprofit schools, both day and residential, with all grade levels.

MANS&C supports the effort to stop bullying. Nevertheless, during debate on the bill, MANS&C Legal Counsel John J. Spillane worked behind the scenes to ensure that our institutions' interests were represented. As a result, the new law contains more limited requirements for "non-public schools," which is the term it uses for nonprofit institutions.

The following checklists will provide you with an overview of how the law affects our institutions and some guidance in meeting its requirements.

According to the law, here are some things that your institution must do:

- Create a bullying prevention and intervention plan by December 31 of this year in consultation with teachers, staff, professional support personnel, school volunteers, administrators, community representatives, local law enforcement, students, their parents and guardians.
- Inform all of your parents and students about your plan and then set aside time for families to comment.
- Inform all faculty and staff about the plan in writing and train them annually on it.
- Post the plan on your school Web site and include information about the law in your student and employee handbooks.
- Notify parents and students annually about student-related sections of the plan.
- Update your plan at least every two years.
- Develop procedures your head of school or equivalent must use to immediately notify the local police when criminal charges may be pursued against the perpetrator.

Each headmaster or person who holds a comparable position is responsible for the implementation and oversight of the plan at his or her school.

The state Department of Education will make a model plan and a wide variety of resources available to schools in the process of creating a bullying prevention and intervention plan. The law provides the following framework for what the plan must include:

- Descriptions of and statements prohibiting bullying, cyber-bullying and retaliation.
- Clear procedures for students, staff, parents, guardians and others to report bullying or retaliation.

- A provision that reports of bullying or retaliation may be made anonymously and that no disciplinary action shall be taken against a student solely on the basis of an anonymous report.
- Clear procedures for promptly responding to and investigating reports of bullying or retaliation.
- The range of disciplinary actions that may be taken against someone for bullying or retaliation. The actions must balance the need for accountability with the need to teach appropriate behavior.
- Clear procedures for restoring a victim's sense of safety and assessing his or her need for protection.
- Strategies for protecting someone from bullying or retaliation if he or she reports bullying, provides information during an investigation, or witnesses or has reliable information about an act of bullying.
- Procedures consistent with state and federal law for promptly notifying the parents or guardians of a victim and a bully. Parents also must be informed of any action taken to prevent future bullying or retaliation, and local law enforcement must be notified when criminal charges may be filed against a bully.
- A provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action.
- A strategy for providing counseling or referral to appropriate services for bullies and victims and for appropriate family members of the students. The plan shall afford all students the same protection regardless of their status under the law.

Bullying is prohibited:

- On school grounds and property immediately adjacent to school grounds.
- At a school-sponsored or school-related activity, function or program, whether on or off school grounds.
- At a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school.
- Through technology or an electronic device owned, leased or used by a school district or school.
- At a location, activity, function or program that is not school-related or through technology or an electronic device that is not owned, leased or used by a school district or school, if the bullying creates a hostile environment at school for the victim, infringes on his or her rights at school or materially and substantially disrupts the education process or the orderly operation of a school.

To read a full text of the law, go to <http://www.mass.gov/legis/laws/seslaw10/sl100092.htm>.

Private Schools Must Comply with Strict New Idling Regulations

New regulations governing the amount of time buses and other vehicles may idle on school grounds were released recently by the Registry of Motor Vehicles. The new rules, which apply to all public and nonprofit schools, are designed to improve and protect campus air quality.

The regulations restrict unnecessary idling on or within 100 feet of school property, regardless of whether school is in session. They also apply to athletic fields and playgrounds used for school purposes or functions and owned by a municipality or school district, as well as their adjacent parking lots.

Motor vehicles are prohibited from idling within 100 feet of school air intake systems unless alternative locations “block traffic, impair student safety or are not cost effective.” Schools must make reasonable efforts to post signs identifying all active air intake systems.

The regulations allow idling when the physical configuration of a school requires a queue of vehicles to actively discharge or pick up students.

In cold weather, school buses that are waiting to discharge or pick up passengers may idle to heat the interior once the interior temperature is less than 35 degrees. In hot weather, air-conditioned buses may idle to cool the interior once the temperature inside reaches 80 degrees if it is not practical or possible to open windows or park in the shade.

In both cases, idling is restricted to three minutes in any 15-minute period.

Vehicles other than school buses must follow the same temperature guidelines, but are restricted to one minute of idling every 15 minutes.

School buses or other commercial vehicles also may idle to operate flashing signal lamps or signal arm devices, if necessary, and to operate defrosters. The regulations also allow idling when it is required to cool down or warm up turbo-charged diesel engines.

Buses or commercial vehicles that carry students with temperature-sensitive disabilities may idle to operate heaters or air conditioners in order to maintain “a reasonable interior temperature.” Idling also is permitted to operate lifts or other equipment needed to load, unload or transport people with disabilities.

An owner or operator of a vehicle who violates the regulations faces a fine of \$100 for the first offense and \$500 for any subsequent offenses. State and local police are charged with enforcing the regulations.

The Registry of Motor Vehicles will notify bus drivers about the new regulations during the drivers’ annual certification process. School bus companies are required to inform drivers about the idling law when they are hired and at least every year after that.

“No Idling” Signs Required

Under the new regulations governing the idling of motor vehicles on school grounds, each public or private accredited preschool; Head Start facility; elementary, vocational, secondary school; school district or municipality must post “no idling” signs that are visible from a distance of 50 feet. The signs must say:

NO IDLING

**PENALTIES OF \$100 FOR
FIRST OFFENSE AND \$500
FOR SECOND AND
SUBSEQUENT OFFENSES**

M.G.L. 90 § 16B AND 540 CMR 27.00

Legislative Report

In the closing weeks of the legislature's formal session, MANS&C Legislative Counsel John J. Spillane reported success in stopping a wide range of troublesome bills affecting nonprofit schools and colleges.

Because of MANS&C's vigorous opposition, the following House bills either received "do not pass" recommendations from their committees or were set aside for further study, effectively killing them for the remainder of the session:



John J. Spillane

- › **HB 111** – Would have required public and private K-12 schools to sterilize all wind instruments given to students except for newly purchased instruments in their original packaging.
- › **HB 508** – Would have required schools to notify parents in writing when a serious, felony-level incident occurs at school or on the way to school.
- › **HB 528** – Would have required asthma screening in all public schools and at the request of parents in private schools.
- › **HB 1246** – Stated that students are incapable of providing consent to sexual relations with employees of public and private schools or college.

- › **HB 1433** – Would have required public school teachers and employees, regardless of employment status, to undergo national and state criminal history background checks in order to be licensed or certified. Although the bill applied only to public schools, MANS&C tracked it for possible future implications for nonprofit schools.
- › **HB 2051** – Would have placed new restrictions on biological research laboratories.
- › **HB 2094** – Established strict standards for environmental air quality.

Spillane continues to monitor a number of other measures that still could be taken up before the formal session ends on July 31. Because of the time lawmakers spent in considering the budget and casino gambling measure, however, many of the remaining bills are unlikely to come up for a vote.

Bills also may be considered in the informal session, which runs from August 1 through December 31, but only if there is no opposition to bringing them to the floor. A new two-year session opens in January with new bills.

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