

AUGUST 2010

Questions?
If you have any questions
about this client update,
please contact:



Richard A. Mills
Partner
(860) 251-5706
rmills@goodwin.com



Gary R. Brochu
Partner
(860) 251-5705
gbrochu@goodwin.com



Christopher A. Tracey
Associate
(203) 324-8155
ctracey@goodwin.com

New Federal “Ed Jobs” Funding Creates Opportunities and Pitfalls for Connecticut School Districts

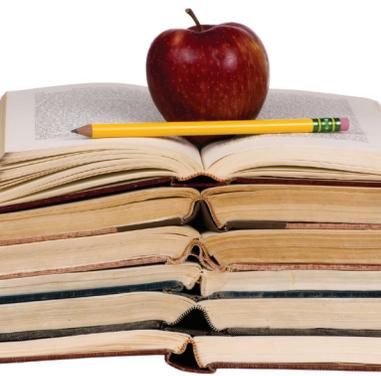
On August 10, 2010, Congress passed legislation creating the Education Jobs Fund (“Ed Jobs”), which provides \$10 billion in federal education aid to states. The funding must be used to “retain or create education jobs.” Connecticut will receive approximately \$110 million in one-time federal aid through this program. The State must pass this funding directly to school districts.

The School Law Practice Group at Shipman & Goodwin LLP has prepared this School Law Alert to help Connecticut school districts understand how Ed Jobs will impact them. Review of the Ed Jobs bill identified the following key aspects of the legislation:

- The Ed Jobs legislation requires that its funding be received directly by school districts. In Connecticut, this requirement means that the funding must be transmitted directly to the school district or to a municipal account designated for the school district. Towns and municipalities in Connecticut have no statutory authority to control the Ed Jobs funding, and Ed Jobs funding may not be used for town or municipal expenses.
- To date, there is no legislative authority permitting a town or municipality in Connecticut to reduce a school district’s allocation for the current fiscal year as a result of the school district’s direct receipt of Ed Jobs funding (though such legislation was passed after school districts directly received the State Fiscal Stabilization Fund portions of the federal stimulus program). The receipt of Ed Jobs funding will have no

impact on a school district’s Minimum Budget Requirement.

- Connecticut has chosen to distribute the approximately \$110 million that it will receive according to the Education Cost Sharing (“ECS”) formula, rather than the federal Title I formula. The Ed Jobs legislation prohibits states meeting certain criteria from requiring school districts to apply for the funds. Connecticut school districts are not required to apply for their share of Ed Jobs funding. The estimated allocation for each school district can be found here: http://www.sde.ct.gov/sde/lib/sde/excel/arra/ed_jobs_preliminary_entitlement_amounts.xls.
- The Ed Jobs funding need not be spent during the current fiscal year. Ed Jobs funding must be spent by September 30, 2012. Ed Jobs funding cannot be used to pay obligations incurred before the legislation’s passage date, August 10, 2010.
- School districts must use the Ed Jobs funding for compensation, benefits, or other expenses necessary to retain existing employees, to recall or rehire former employees, and/or to hire new employees. The United States Department of Education has stated that the following expenses are permissible uses of the funding (subject to the additional criteria set forth herein): salaries, performance bonuses, health insurance, retirement benefits, incentives for early retirement, pension fund contributions, tuition reimbursement, student loan repayment



One Constitution Plaza
Hartford, CT 06103-1919
860-251-5000

300 Atlantic Street
Stamford, CT 06901-3522
203-324-8100

1133 Connecticut Avenue NW
Washington, DC 20036-4305
202-469-7750

289 Greenwich Avenue
Greenwich, CT 06830-6595
203-869-5600

12 Porter Street
Lakeville, CT 06039-1809
860-435-2539

www.shipmangoodwin.com

assistance, transportation subsidies, and reimbursement for childcare expenses. This list of eligible expenses is not exhaustive. Other expenses meeting the criteria set forth in the legislation may also qualify.

- The funding must be used for expenses associated with individuals directly employed by the school district. As a general principle, school districts may not fund independent contractors or consultants with Ed Jobs funding. School districts that contract with other school districts to provide instruction or related services may, however, use the Ed Jobs funding to fund the employee compensation portion of the contractual arrangement.
- The Ed Jobs funding may be used to fund employees of the school district who provide school-level instruction and/or related services, including but not limited to: teachers, principals, assistant principals, academic coaches, in-service teacher trainers, classroom aides, counselors, librarians, secretaries, social workers, psychologists, interpreters, physical therapists, speech therapists, occupational therapists, information technology personnel, nurses, athletic coaches, security officers, custodians, maintenance workers, bus drivers, and cafeteria workers.
- The Ed Jobs funding cannot be used to fund school district level administrative expenditures, including school district level staff or board of education staff, or school district level support services, including human resources operations, fiscal services, planning services and research. The Ed Jobs funding cannot be used to fund pension obligations that were incurred prior to August 10, 2010.
- School districts must separately track the spending of Ed Jobs funding. Federal accounting standards require that school districts maintain records that would permit an effective audit of the school district's spending of Ed Jobs funding. School districts must be able to demonstrate that the Ed Jobs funding was used in compliance with the applicable legal standards.
- School districts have concurrent reporting requirements related to the Ed Jobs funding. The same reporting requirements imposed on school districts by the American Recovery and Reinvestment Act ("ARRA"; commonly referred to as the "Stimulus Package") apply to the Ed Jobs funding, including the need to file quarterly reports detailing the use of the Ed Jobs funding. The Ed Jobs legislation also imposes additional annual reporting obligations. Additional guidance regarding these annual reporting requirements will be provided by the federal government.
- Consistent with federal regulations, school districts should draw down Ed Jobs funding as needed to pay program costs, minimizing the delay between draw down and expenditure of the funding. The federal government has warned that it will take action to recover interest earned on advance draw downs.

The School Law Practice Group will continue to track this legislation for our clients, and our attorneys are available to answer clients' questions regarding the Ed Jobs legislation.

For more information about this Alert or the Ed Jobs legislation, please contact:

Richard Mills at (860) 251-5706 or rmills@goodwin.com,

Gary Brochu at (860) 251-5705 or gbrochu@goodwin.com, or

Christopher Tracey at (203) 324-8155 or ctracey@goodwin.com.

This communication is being circulated to Shipman & Goodwin LLP clients and friends and does not constitute an attorney client relationship. The contents are intended for informational purposes only and are not intended and should not be construed as legal advice. This may be deemed advertising under certain state laws. © 2009 Shipman & Goodwin LLP.



SHIPMAN & GOODWIN LLP®

COUNSELORS AT LAW