

CERINI & ASSOCIATES, LLP | CERTIFIED PUBLIC ACCOUNTANTS
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LESSON PLAN

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BRINGING A UNIQUE UNDERSTANDING OF KEY ISSUES FACING PUBLIC SCHOOL DISTRICTS

FROM THE EDITOR - SHARI DIAMOND, CIA

Welcome to the 19th edition of the Lesson Plan, the newsletter created and developed for school districts. As schools across the Island are gearing up for another great educational year, districts are dealing with many changes in regulations and reporting requirements. In this issue, we look at how the changes are impacting school operations including the New York State's new anti-sexual harassment laws, the results of the Janus ruling, the compliance with the Voting Rights Act, and the latest clarification on School Session Days. We also provide tips on how to reduce the risk of ransomware attacks, considerations for moving the district's technology operations to the cloud, and strategies to cope with the shortage of substitute teachers.

As internal auditors and claims auditors for over 30 districts, we truly want to be a valuable resource to the districts we serve. We strive to provide useful information to all our clients and friends. We pride ourselves on educating the sector. Should you have any questions or want to bounce any ideas off us, please feel free to contact our office.

Please come see us at the upcoming NYSSBA convention in New York City on October 25th and 26th. We will be at booth #546.

Our goal is to connect with you and help you meet your goals. Give us a call.

Shari Diamond

**COME
SEE US!**



BOOTH #546
OCTOBER 25 & 26

CONTRIBUTORS

WRITERS

TOM WEYER, CPA
CERINI & ASSOCIATES, LLP
STAFF ACCOUNTANT

SHARI DIAMOND, CIA
CERINI & ASSOCIATES, LLP
DIRECTOR, INTERNAL AUDIT

GREGORY GIOVINO
WEBAIR
BUSINESS DEVELOPMENT

GIANNI FAZIO
CERINI & ASSOCIATES, LLP
CLAIMS AUDITOR

JOE MILLER
CERINI & ASSOCIATES, LLP
CLAIMS AUDITOR

NICHOLLE MEZIER, CPA, MBA
CERINI & ASSOCIATES, LLP
SENIOR ACCOUNTANT

ASSOCIATE EDITOR
KEN CERINI, CPA, CFP, FABFA
CERINI & ASSOCIATES, LLP
MANAGING PARTNER

PAGE LAYOUT & DESIGN
KRISTINA LAINO
CERINI & ASSOCIATES, LLP
GRAPHIC DESIGNER



EDITOR

SHARI DIAMOND, CIA
CERINI & ASSOCIATES, LLP
DIRECTOR, INTERNAL AUDIT



3340 VETERANS MEMORIAL HWY., BOHEMIA, NY 11716 | (631) 582-1600 | WWW.CERINICPA.COM

DOJ ENFORCEMENT OF §203 THE VOTING RIGHTS ACT



While the Voting Rights Act has been around since 1965, there have been many amendments to this act including the addition of Section 203. This Section requires districts to provide materials relating to the electoral process in both English and the language of the applicable minority group. For Long Island school districts, this means budget election materials must be in both English and Spanish.

In more recent news, 81 Fed. Reg. 87532 published the "Bureau of the Census Director's determination as to which political subdivisions are subject to the minority language assistance provisions of the Act. As of [December 5, 2016], jurisdictions that are listed as covered by Section 203 have a legal obligation to provide language assistance prescribed by the Act." As a result, school districts located in Suffolk County and Nassau County are subject to the requirements of Section 203 for the Spanish language.

Near the end of the 2017-2018 school year, the US Attorney's Office of the Department of Justice informed many districts that their compliance with the mandate per the most recent election (*for many this was May 2018*) is being reviewed. These districts are being asked to provide proof of compliance with Section 203 of the Voting Rights Act. To comply, schools across Long Island need copies of registration or voting notices, forms, instructions, assistance, and other materials or information relating to the electoral process, including ballots in Spanish.

Schools that are not in compliance will have to spend funds that may not have been budgeted for. Districts will have to spend more on printing costs as voting materials need to be in two languages. In addition, districts will have to obtain ballot readers that can handle processing another language and will have to retain the services of certified translators to translate the required documents. Since these are going to be recurring costs, schools should ensure that such expenses are included in budgets on an annual basis.

TOM WEYER, CPA
STAFF ACCOUNTANT

NEW YORK'S NEW ANTI-SEXUAL HARASSMENT LAWS

Effective October 19, 2018, all New York State employers will be required by law to implement a sexual harassment policy within their organizations. This law comes after a tidal wave of sexual harassment allegations that have plagued many American politicians, celebrities, and businessmen.

Governor Cuomo was one of the first to amend New York State's Human Rights Law, which applies to all employers in the State. The new law also requires all employers to implement substantial sexual harassment training and policies against sexual harassment. As an employer, you must either adopt the State's model training program and model sexual harassment prevention policy or implement your own training policy that meets or exceeds the standards of the State.

Sexual Harassment shouldn't be overlooked. A single incident, or even a joke taken the wrong way, could be considered sexual harassment by New York State courts. Employers are strictly held liable if managers or owners harass an employee. In some cases, an employer may be legally liable for harassment by a lower level manager or supervisor as well. If an employer ignores harassment or fails to correct it, they will also be held liable. The implementation of a well-constructed policy is the best way to avoid any form of legal action or negative publicity.

An effective policy acts as your first line of defense from a sexual harassment lawsuit and should state that sexual harassment is not tolerated in the workplace. Strong policies limit an employer's liability by deterring and preventing sexual harassment. Policies should include processes for investigating allegations and taking prompt corrective action when sexual harassment occurs, and a means for employees to alert management. It is imperative for policies to include a statement banning sexual abuse and provide examples of what constitutes sexual abuse.

Schools are required to provide training that is interactive, and the training should be made available through, including but not limited to, online means. The training must address harassment and discrimination relating to, but not limited to, issues of pregnancy, familial status, pay equity, and sexual harassment.

As almost all districts have a diverse work force, maintaining a safe workplace is essential, and the establishment of a strong policy, along with training, is a key component to ensure the staff can focus on meeting the district's educational goals.

For more information about the new laws, implementing your own policies, and training tips visit www.bit.ly/2xVRKcm.

GIANNI FAZIO
CLAIMS AUDITOR

SUBSTITUTE TEACHER - HIGH DEMAND, LOW SUPPLY



Many schools across the country are experiencing difficulties getting substitute teachers, and Long Island is not exempt from this problem. Substitute teaching is often not a steady job; it is coupled with low pay, and more often than not, no health benefits. The pool of available substitute teachers has been getting smaller each year, with the improvement of the economy. With strapped budgets, schools are looking for strategies to solve the substitute shortage.

An article published in Education Week in 2016 noted that approximately 1/4 of the teachers are absent for 10 school days or more per school year. Health is not the only thing keeping teachers out of the classroom. Often, substitutes are needed because teachers need to attend in-district meetings (e.g. CSE or curriculum related) or professional development training during the school day. Such meetings and trainings generally take place during the work day as stipulated in teacher contracts. The need to ensure students are learning and staying on track is imperative, and studies have shown that students do not perform as well when their regular teacher is absent. In addition, the costs paid for a substitute teacher can quickly add up. Some school districts have an employee contract for substitute teachers, or have included substitute teachers in other employee bargaining unit agreements. Many though, do not offer bargaining rights for substitutes, and are not in a financial position to implement this.

Increasing pay or offering health benefits for substitutes may attract more candidates, but doing so could negatively affect a district's bottom line. Some districts hire permanent substitutes that can work every school day and can then be placed where needed. This tactic is helpful, but not always beneficial for students as a substitute's credentials may not be sufficient to implement the lesson plan. This often results in increased behavior problems as students are not properly engaged, not to mention critical time lost on teaching content.

So, *how do you combat a supply shortage and ensure that the students' learning experience is not jeopardized?* One school in Massachusetts thinks they have a solution. The Lexington Public School has implemented an **Electronic Learning Facilitator** (wittingly abbreviated as an "ELF") for when teachers at the high school are absent. As described in an article on the online website, EdSurge.com, the school set up a collaborative learning space where the full-time licensed ELF provides online instruction. The ELF works with the classroom teachers to ensure that the instruction is in a digitally-rich online format so that when the teacher is absent, the ELF can deliver the lesson and class time is not lost. The school achieved this by having a blended learning environment called the **Independent Digital Learning Center (IDLC)**. Students use devices such as a Chromebook to access the lesson that their teacher created in a digital format. The school also modified the learning space so that students can work collaboratively. Teachers have reported that students had no loss in continuity of instruction from their absence, and students have reported that they are more engaged in learning when they have an ELF than with a substitute.

While an ELF may solve some of the problems with substitute shortages at the secondary school level, it won't help much for classes at the primary school level as a physical presence may still be needed to monitor younger students. Online instructional learning may be the key to this. Many schools have already implemented elements of online instructional learning using Chromebooks through a 1:1 initiative or carts. Online education provides the platform for teachers to monitor student progress in real-time and then provide feedback. An added benefit of having electronic lesson plans is that schools will now have a repository of lesson plans that can be used for future application. Having an effective lesson plan from a certified teacher can make the difference for student learning when bringing in an uncertified substitute and hoping for a smooth transition.

Another strategy implemented in some other states to combat substitute shortages is the issuance of a substitute teacher license. Many districts require a licensed teacher to sub even though there is no minimum education requirement to be a substitute teacher in New York. Issuing substitute teacher licenses, where a person with a bachelor's degree or higher from an accredited institution can apply for the license, can help battle the supply shortage while also bringing some level of comfort to districts and their community members that their students have an educated individual instructing the classroom. Another tactic involves providing individuals with incentives to continue substituting. Some schools have increased marketing efforts to attract retired teachers as well as parents, while others offer training for substitutes to ensure they are comfortable walking into a classroom. Lastly, some schools use monetary incentives to attract substitutes, such as increasing the daily rate when a substitute works more than a specified number of days in a district.

If incorporating an ELF into your classrooms seems a little farfetched and hiring a substitute is out of the question, there are other alternatives. Such alternatives include combining classes or dividing the class into other classes, but this can make teaching more difficult and less effective. Some schools across the nation even require that administrators or other school staff step in when a teacher is out. If an archive of lessons plans is available, then the students' education would hardly be interrupted. This strategy can be helpful especially when getting a substitute proves difficult, however, districts then have to ask, "who's performing the administrator's work while they're substituting?" Other schools have teachers give up their prep period to provide coverage, but this too is an added expense as many contracts stipulate payment for teachers giving up their prep period.

Teacher absences are known to have a negative impact on student performance and learning, and there are significant costs associated with hiring a substitute. As it is budgeting season, districts may have to weigh the cost of paying teachers extra for meetings after school hours or for providing class coverages during a prep period against the cost of hiring a substitute to determine which course is best for the district and ultimately the students.

SHARI DIAMOND, CIA
DIRECTOR, INTERNAL AUDIT



JANUS RULING:

School districts need to reconsider how payroll deductions for union dues and agency fees are handled in light of the U.S. Supreme Court's decision in **Janus v. American Federation of State, County, and Municipal Employees (AFSCME)** Council 31.

Before the court's decision, unions were permitted to collect an "agency fee" from individual employees who were not part of the union. Unions could require non-union employees to pay a reasonable portion of the costs incurred when negotiating on their behalf over terms of employment, so long as the payment did not go towards political or ideological activities. The recent Supreme Court decision deemed this a **violation** of non-members' First Amendment right because these employees are forced to support the positions their assigned union takes. This decision affects all public employee unions, including school districts.

How does this affect payroll? Disallowing districts to deduct agency fees from non-member wages without his/her consent poses a logistical challenge because the payroll department typically cannot distinguish union members from non-members. There are a few best practices your district can follow to comply with the recent Janus ruling:

- ▶ *Review your collective bargaining agreements to ensure they do not contain wording referencing agency fees and follow the Civil Service Law as impacted by the recent Janus ruling.*
- ▶ *Ensure you obtain prior consent from employees to deduct union dues or fees and ensure that the consent/waiver is documented, signed by the employee, and retained in their personnel file.*

Before making any decisions, it is highly encouraged that school districts consult their school attorney or contact NYSSBA's legal department.

JOE MILLER
CLAIMS AUDITOR

REDUCING THE RISK OF RANSOMWARE ATTACKS

Pretty much every day, there is a news report about a company's computer system being hacked. The hackers often request large sums of money (*usually in bitcoin*) in order for the company to unlock its system. For some, paying the ransomware may seem more economically viable, especially if the organization stands to lose a significant amount of revenue per day from the loss of the computer operations. Reports have indicated that paying does not guarantee that you will get your system back nor does it prevent the hackers from repeating their crime. The more funds the hackers receive, the better they become at crafting techniques for compromising systems and holding your computer system hostage. The official advice from the U.S. government, as well as cyber defense experts, *is not to pay*.

School districts are not exempt from cyber-attacks. Per the June 2016 publication from the Office of the State Comptroller titled "*Protecting Sensitive Data and Other Local Government Assets: A Non-Technical Cybersecurity Guide for Local Leaders*," the school district superintendent has a "*responsibility to protect and maintain a secure information technology (IT) system*." The publication notes that "*audits conducted by OSC have shown that weaknesses are persistently prevalent in local government and school district IT systems, regardless of the complexity or size of the system*."

So, *how can the likelihood of a ransomware attack be lessened?* One of the primary methods to accomplish this is to ensure that antivirus software is installed, and all endpoints are up-to-date and protected. Antivirus programs with endpoint protection can check for ransomware attempts and allow the IT security staff to monitor attacks and reduce the ability of the attack from spreading throughout the system.

Another key element in reducing ransomware attacks is to ensure that all patches have been implemented and are current. A good patch management system regularly implements hardware and software security updates from manufacturers and can help reduce the risk of the most common third-party software products, such as Java and Adobe flash, being exploited.

Along with ensuring that antivirus programs and software security patches are up-to-date, districts can also scan and filter content on email servers. In doing so, they can check for known threats and block emails with attachments that may be a threat. The majority of ransomware attacks happen because users unwittingly open an infected email or click on an infected attachment. Spam filters handle many of the suspicious emails and prevent them from arriving in a user's inbox; incoming emails and attachments will be scanned for potential known threats and those that don't pass the test will be locked up.

Unfortunately, even with the implementation of necessary software protocols to reduce cyber threats, attacks can still occur. The best defense is **educating all users**, including teachers, administrators, support staff, and students, on safe internet practices; all district staff should be taught the "*think before you click*" mentality. Schools can provide such education through formal policies and procedures manuals, and through specific training. Both NYSSBA and NYSASBO have sample acceptable-use policies that districts can use to define the types of activities that are permitted and the repercussions for not complying with the defined usage. Districts can provide cybersecurity awareness training as part of professional development for teachers and staff and can integrate the training as part of computer technology education for students. Training can also be obtained by educators for free through the **National Initiative for Cybersecurity Careers and Studies (NICCS)**, which is an online resource and training site managed by the **Department of Homeland Security** - www.niccs.us-cert.gov. In addition, the **National Initiative for Cybersecurity Education (NICE)**, a program of the National Institute of Standards and Technology in the Department of Commerce, has instructional information and materials for teachers - www.bit.ly/2rW3khC.

The lesson here is that ransomware and cybersecurity attacks are not going away. If anything, the attacks will be more sophisticated. Being proactive by implementing preventative IT security measures, along with regular and effective training for all employees and students, can help protect the school's data and lower the chances of getting hacked.

SHARI DIAMOND, CIA
DIRECTOR, INTERNAL AUDIT

SPEAKING OF RANSOMWARE ATTACKS...

GOING TO THE CLOUD

Looking to reduce the risk of disruptions in computer operations and reduce costs? Virtualizing your data center may provide the answer. With the 2% tax-cap and the cost of computer equipment replacement costs, schools are faced with a real challenge finding funds to support their technology operations. A solution many schools and organizations have embraced is having their operations moved to the cloud and hosted by a cloud service company. Cloud server hosting is when hosting services are made available to customers on demand via the Internet. Rather than being provided by a single server or virtual server, cloud server hosting services are provided by multiple connected servers that comprise a cloud. By having your servers located at a cloud-based facility, the risk of having your computer operations impacted by natural disasters and/or cyber-attacks can be significantly reduced. The benefits of a cloud environment include:

- ▶ Lower cost to run operations.
- ▶ Customized data replication.
- ▶ Several hosting methods options (can be all or a hybrid implementation).
- ▶ Ransomware recovery that provides automatic failover and failback between production and recovery sites.
- ▶ Office 365 recovery.

When selecting a vendor to manage your district's computer operations, factors to consider include budget, location, security, reputation, reliability, and managed versus unmanaged delivery of service (*control of access to the servers as well as specific backup specifications*). Many districts want to be able to customize their cloud backup process, so it is key that a cloud service provider has the capability to offer flexible implementation that can address your computer operation needs.

Gregory Giovino, Business Development

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SESSION DAYS UPDATE

With any State instruction, clarification is needed, so it should come as no surprise that the minimum instruction requirement for State Aid is still being discussed. Let's address the clarification requested during the public comment period following the April 2018 proposed amendments (*see our synopsis in Lesson Plan Vol. 18*):

- ▶ The amount of instructional time that can be credited for superintendent's conference days.
The number of hours that can be credited toward annual instruction time for superintendent's conference days will be based on the average scheduled school day **including** time spent in homeroom, lunch, recess, and/or passing time. This means that if your district has a bell schedule longer than 5 hours at the elementary level and 5.5 hours at the secondary level, you could receive more instructional time credit on superintendent's conference days.
- ▶ The State Aid calculations for districts that are deficient in the number of instructional hours provided.
Based on the revised Section 175.5, effective August 11, 2018, "*in the event that a school district has a total deficiency in hours that equals a fraction of hours per day...such deficiency shall be rounded up to the next whole day*" for State Aid deduction purposes.
- ▶ The amount of instructional time that can be claimed during a Regents or Rating day.
Based on NYSED's Instructions for *Using the 2018-2019 School Year Model Calendar*, a district can "*claim the greater of [its] regular instructional day or six hours*." In addition, based on conversations with NYSED and the proposed changes in how minimum instruction time is being interpreted and calculated, days on which instructional time is provided will count as session days so long as some amount of instructional time is provided, including the last day of school.

Just a Reminder:

- ▶ Lunch, recess, and passing time should be excluded from the hours counted toward "*actual instructional or supervised study*."
- ▶ All proposed regulations and amendments will be in effect for school years beginning with 2018-2019 and the existing regulation will still apply for the 2017-18 school year calendars.

All proposed amendments were adopted as a permanent rule at the September 2018 Board of Regents meeting.

NICHOLLE MEZIER, CPA, MBA
SENIOR ACCOUNTANT



**CERINI
& ASSOCIATES** LLP
CERTIFIED PUBLIC ACCOUNTANTS

Cerini & Associates, LLP
3340 Veterans Memorial Hwy.
Bohemia, N.Y. 11716
www.ceriniandassociates.com

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David A. Goldstein, Partner
Certilman Balin, Adler, & Hyman, LLP

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Contact Lula for Webinar Option:
lulal@cerinicpa.com

Cerini & Associates, LLP

P: (631) 582-1600 | F: (631) 582-1714 | W: www.cerinicpa.com | 3340 Veterans Memorial Hwy., Bohemia, NY 11716