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CLIENT ALERT

TO: Education Clients
Municipal Clients

From: Murphy, Hesse, Toomey, and Lehane, LLP

Date: February 11, 2003

Re: Advisory Notice Regarding Chapter 385 of the Acts and Resolves of 2002
(An Act Further Protecting Children)

On November 27, 2002 the Massachusetts Legislature passed Chapter 385 of the Acts of 2002, which is entitled "An Act Further Protecting Children" and will become effective on February 25, 2003. Section 2 of this Act amends MGL 71, §38R by significantly broadening the duty of schools to obtain criminal offender record information ("CORI"). More specifically, Section 2 requires schools to obtain CORI information on all current and prospective employees and volunteers who may have direct and unmonitored contact with children, including any individual who regularly provides school related transportation to these children. Listed below is the current language of MGL 71, §38R, as well as the relevant amendments that take effect on February 25th.

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MGL c. 71, §38R

(Language in effect *until* February 25, 2003):

The school committee and superintendent of any city, town or regional school district and the principal, by whatever title the position be known, of a public school of any city, town or regional school district shall have access to criminal offender record information of any applicant for any position in the school department, including any subcontractor or laborer commissioned by the school committee of any city, town or regional school district to perform work on school grounds during any time where there may be direct contact with school children, where applicable for hiring purposes. Such access shall be exercised in accordance with sections one hundred and sixty-seven to one hundred and seventy-eight, inclusive, of chapter six.

(Language in effect *after* February 25, 2003):

The school committee and superintendent of any city, town or regional school district and the principal, by whatever title the position be known, of a public *or accredited private school of any city, town or regional school district shall have access to and shall obtain all available criminal offender record information from the criminal history systems board of any current or prospective employee or volunteer of the school department, who may have direct and unmonitored contact with children, including any individual who regularly provides school related transportation to children. Such school committee, superintendent or principal shall periodically, but not less than every 3 years, obtain all available criminal offender record information from the criminal history systems board on all such employees and volunteers during their term of employment or volunteer service.* Said school committee, superintendent or principal shall also have access to all criminal offender record information of any subcontractor or laborer commissioned by the school committee of any city, town or regional school district to perform work on school grounds, and who may have direct and unmonitored contact with children.

Access to such information shall be obtained in accordance with sections 167 to 168, inclusive, of chapter 6. A school committee, superintendent or principal obtaining information under this section shall prohibit the dissemination of such information for any purpose other than to further the protection of school children.

As a result of the amendment to Chapter 71, §38R which will take effect on February 25, 2003, schools must:

1. Obtain CORI information on all current and prospective employees and volunteers who may have direct and unmonitored contact with children.

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2. Obtain CORI information on all individuals who regularly provide school-related transportation to children and who may have direct and unmonitored contact with children.
3. Update the CORI information mentioned in paragraphs 1 & 2 not less than every three years.

Due to the fact that performing CORI checks on current employees may trigger a bargaining obligation, notification to all affected bargaining units in advance of performing the CORI is advised.

If you have any questions or comments, please do not hesitate to contact our office.