

What Community Schools Need to Know About the Affordable Care Act

by Melissa A. Ebel, Lynn V. Luther and Albin Bauer

School officials, management companies and sponsors have questioned whether the Patient Protection and Affordable Care Act (a.k.a. “Affordable Care Act” or “Obamacare”) applies to community schools. The simple answer is yes.

The Affordable Care Act requires all employers covered under the Fair Labor Standards Act (FLSA) to provide written notice by **October 1, 2013**, to all employees of their right to purchase health insurance through the Affordable Insurance Exchange (“Marketplace”). Any employee hired after October 1, 2013, must be provided this notice within 14 days of hire. Community schools and management companies are covered employers under the FLSA and must comply with this notice requirement regardless of the number of employees at the school, the hours worked by those employees, or whether the school or management company currently offers health coverage to their employees. The employees at some community schools are jointly employed by the school and its operator or sponsor. Schools that have a joint employment arrangement should consult their attorneys regarding compliance with the Act’s requirements to make sure there is good coordination between the joint employers.

The notice must contain information about the Marketplace, including, but not limited to, a description of the Marketplace, who to contact for information about the Marketplace, the potential qualification for a premium tax credit and information about coverage currently being offered by the employer, if any. The Department of Labor has provided the following forms employers may use to comply with the notice requirement.

1. Model notice for employers who currently offer a health plan to all or some employees: <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>

2. Model notice for employers who currently do not offer a health plan: <http://www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf>

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While implementation of the large employer mandate has been postponed until 2015, many aspects of the Affordable Care Act go into effect in January 2014. Some of those requirements affect all employers, regardless of their number of employees. Schools and management companies should consider conducting an audit to determine whether any changes are necessary to be in compliance with the Act.

If you have any questions regarding how the Affordable Care Act applies to community schools or any other education law issue, please contact [Melissa A. Ebel](#), [Lynn V. Luther](#), or [Albin Bauer](#) in our Toledo or Columbus offices, or visit our website at www.eastmansmith.com.

Should you wish to learn more about how Marketplaces work, "[What Employers Need to Know About the Marketplace](#)" is available on our web site.

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