LCW LIEBERT CASSIDY WHITMORE

EDUCATION LEGISLATIVE ROUNDUP

Yearly developments in education, labor and employment law.

2018

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*Education Legislative Roundup is a compilation of bills, presented by subject, which were signed into law and have an impact on the legal issues our clients are facing. Unless the bills were considered urgency legislation (which means they went into effect the day they were signed into law), bills are effective on **January 1, 2019**, unless otherwise noted. Urgency legislation will be identified as such. Many of the bills summarized below apply directly to public education districts. Bills that do not directly apply to public education districts are presented either because they indirectly apply, may set new standards that apply or would generally be of interest to our school clients.*

If you have any questions about your districts's obligations under the new or amended laws as outlined below, please contact our Los Angeles, San Francisco, Fresno, San Diego or Sacramento office and an attorney will be happy to answer your questions.

BUDGET AND FINANCE

AB 1962 – Amends the Definition of "Foster Youth" for Local Control Funding Formula (LCFF) to Include Foster Students under the Placement of an Indian Tribe.

The Local Control Funding Formula provides funding to local educational agency. Part of the calculation of that funding is based on the number of students of the local educational agency in foster care. This bill amends the LCFF definitions to include in the definition of "foster youth" a dependent child of the court of an Indian tribe, consortium of tribes or tribal organization who is the subject of a petition filed in the tribal court pursuant to the court's jurisdiction in accordance with the tribe's law. The student must meet the definition of a dependent of the juvenile court (foster youth) under Welfare and Institutions Code 300 to be counted in the funding formula. This provision becomes effective no later than the 2020-2021 fiscal year.

The bill also provides that the State Department of Social Services is not required to collect, or share with the Department of Education, any information about the students, which are affected by the bill.

(AB 1962 amends Section 49085 of the Education Code.)

AB 1840 – Establishes Local Solutions Grant Program to Address Need for Special Education Teachers; Allocates Funding to Charter School Facility Grant Program.

This bill establishes the Local Solutions Grant program, which appropriates fifty million dollars from the General Fund to provide one-time competitive grants to local educational agencies to develop new, or expand existing, locally identified solutions that address a local need for special education teachers. The funding is for the 2018-2019 fiscal year.

Grants shall be up to $20,000.00 per teacher participant that the identified solution proposes to support, matched by that local educational agency or consortium on a dollar-for-dollar basis. Grant program funding may be used for local efforts to recruit, develop support systems for, and retain special education teachers. This includes, but is not limited to, teacher career pathways, signing bonuses for newly credentialed teachers who earn an education specialist credential, mentors for existing teachers, professional learning committees, service awards, teacher service scholarships, student debt payment, living stipends for newly credentialed teachers who earn an education specialist credential, or other solutions that address a local need for special education teachers.

This bill also allocates the sum of twenty-one million one hundred forty-six thousand dollars to the California School Funding Authority to support programmatic costs for the Charter School Facility Grant Program.

(AB 1840 amends Section 44416 of the Education Code.)

AB 2235 – Provides That a County Superintendent of Schools Will Receive Average Daily Attendance Funding for Students Enrolled in a School Operated by a County Office of Education.

Under current law, if a county superintendent of schools enrolls a pupil in as school operated by the county superintendent of schools, the attendance generated by that pupil must be credited to the pupil's school district of residence.

Under this bill, effective with the 2019-2020 school year, the Superintendent of Public Instruction must transfer the amount calculated for the school district of residence for each unit of average daily attendance credited to the school district. The Superintendent may transfer an alternate amount if the county office of education and school district of residence agree to an alternative amount and report it to the Superintendent of Public Instruction under procedures and timeframes established by the Superintendent of Public Instruction.

(AB 2235 amends Section 2576 of the Education Code.)

BUSINESS AND FACILITIES

AB 375 – The California Consumer Privacy Act of 2018.

This bill creates the California Consumer Privacy Act of 2018, which gives California residents ("consumers") the right to:

1. Know what personal information a business has about them, and where information came from or was sent (e.g., who it was sold to);
2. Delete personal information that a business collects from them;
3. Opt-out of the sale of personal information about them; and
4. Receive equal service and pricing from a business, even if they exercise their privacy rights under the law, with some exceptions.

Companies will need to provide information to consumers about these rights in privacy policies and will need to provide consumers with the ability to opt out of the sale of personal information by supplying a link titled "Do Not Sell My Personal Information" on their home page. The Act further provides that a business must not sell the personal information of consumers younger than 16 years of age without that consumer's affirmative consent or for consumers younger than 13 years of age, without the affirmative consent of the consumer's parent or guardian.

The Act defines "personal information" broadly as any information that identifies or can be used to identify a consumer or their household, such as: records of products purchased, browser search histories, educational information, employment history, and IP addresses.

Public entities and most for-profit schools do not need to comply because the law only applies to: for-profits doing business in California, that: (a) have annual gross revenues in excess of $25 million; or (b) receive or disclose the personal information of 50,000 or more Californians; or (c) derive 50 percent or more of their annual revenues from selling California residents' personal information.

However, when contracting with covered companies, public entities and schools will want to ensure that the obligations and risks of the law rest squarely with the for-profit business. Those risks are real. The Attorney General has enforcement authority over the act. Consumers may bring class actions against non-compliant companies that allow sensitive consumer personal information to be stolen or wrongfully disclosed. In these cases, consumers may seek statutory damages between $100 and $750 per California resident per incident.

(*AB 375 adds Sections 1798.100 to 1798.198 to the Civil Code.*)

AB 1406 – Districts May Lease Buildings for 99 Years.

Currently, school districts are authorized to enter into leases relating to real property and buildings that will be used by the district or will be used jointly by the district and a private person, firm, local public agency, or corporation. Existing law limits the length of any lease or agreement to 40 years, or 66 years in the case of a joint leases. AB 1406 extends these maximum terms for any kind of lease involving a district to 99 years.

(*AB 1406 amends Sections 17403 and 17517 of the Education Code.*)

AB 1565 – Limits Liability of General Contractors for Sub-Contractor's Failure to Comply with the Labor Code.

Last year, the Legislature enacted Labor Code section 218.7, which holds direct contractors liable, under certain types of construction contracts, for unpaid wages, benefits, or contributions that a subcontractor owes to its workers. Labor Code section 218.7 allows direct contractors to require subcontractors to provide certain payroll records so that the direct contractor can evaluate the subcontractor's compliance with wage and hour laws. The direct contractor may withhold payments until the subcontractor provides those records.

When Labor Code section 218.7 was enacted, Governor Brown explained that in 2018 the sponsors of that law would pass clarifying legislation regarding the scope of liability for contractors. This bill is that clarifying legislation. AB 1565 strikes language providing that the direct contractor's liability for unpaid wages or benefits is in addition to any other existing rights and remedies. AB 1565 also provides that in order to withhold payments, the direct contractor must specify in its contract with the subcontractor, what specific documents and information that the subcontractor is required to provide.

(*AB 1565 amends Section 218.7 of the Labor Code.*)

AB 1766 – All Public Swimming Pools, Where Admission Fees are Charged, Must Now Have an Automated External Defibrillator Onsite.

This bill requires all public swimming pools to have an Automated External Defibrillator ("AED") onsite. This bill applies to all artificial public swimming pools, as opposed to public lakes or rivers, where an entrance fee is charged. Currently, public agencies are required to provide lifeguards during pool operations. Agencies will now be required to also provide AEDs, which are portable electronic devices used to deliver an electrical shock, or defibrillation, during life-threatening cardiac arrest. The bill also requires the State Department of Education, in consultation with the State Department of Public Health, to issue best practices guidelines for pool safety at K-12 schools.

(*AB 1766 amends section 116045 of the Health and Safety Code.*)

AB 1770 – Deletes the Requirement that the Issuer of an Asset-Based Security Must Have at Least an "A" Rating for Public Investment of a Surplus Fund.

This bill gives local agencies more flexibility to invest surplus funds in mortgage-backed securities ("MBS") and asset-backed securities ("ABS"). Current law allows a local agency to invest surplus money into MBSs and ABSs if: (1) the security's issuer has an "A" rating or better by a National Recognized Statistical Rating Organization ; (2) the security itself is rated "AA" or better; and (3) the security comprise no more than 20%

of the agency's surplus funds. However, issuers of MBSs and ABSs are often trusts organized as separate legal entities only to issue specific securities. These "issuers" are not themselves rated, which prevents local agencies from investing in these high yield instruments, because the second requirement – an "AA" rating or better – cannot be met.

This bill removes that requirement, enabling treasurers to purchase these instruments. Agencies will instead be limited to purchasing only highly-rated securities (e.g., the security must have an AA rating, but the issuer of the security does not need to be rated). The bill also clears up an ambiguity over the application of a five-year limit on the maturity of the investment. The bill revises the maximum five-year maturity requirement to a requirement that the securities have a maximum remaining security of 5 years or less.

(*AB 1770 amends Section 53601 of the Government Code.*)

AB 2031 – Makes the Submission of a Prequalification Questionnaire and Financial Statement for Bidding on a School Facilities Project Permanent.

Existing law requires school districts with an average daily attendance over 2,500 to establish a process for prequalifying general contractors and certain subcontractors for public works projects over $1 million and that use state school facility bond funds. To meet these requirements, the district must:

1. Require prospective bidders for a construction contract to complete and submit, under oath, a standardized prequalification questionnaire and financial statement; and

2. Adopt and apply a uniform system of rating bidders based on the completed questionnaires and financial statements.

As originally enacted, this law had January 1, 2019 sunset date on the prequalification requirements. This bill eliminates the sunset date, making the prequalification requirements permanent, and removes a requirement that the Department of Industrial Relations report to the Legislature on the impact of the adoption of prequalification requirements.

(*AB 2031 amends Section 20111.6 of the Public Contracts Code.*)

AB 2249 – Increases Project Cost Limits of the Uniform Public Construction Cost Accounting Act.

The Uniform Public Construction Cost Accounting Act promotes uniformity of cost accounting standards and bidding procedures on construction work performed or contracted for by public agencies. The Act is a voluntary program available to all public agencies that opt in with a formal resolution.

The Act allows participating agencies to use own employees or hire other entities directly through a negotiated contract or purchase order to perform public construction contracts that cost under a certain limit. Agencies may also use informal bid procedure to bid public projects that cost less than certain thresholds. Every five years, the State Controller reviews and makes recommendations for adjustments to these costs limits. With this bill, the Controller has approved the following cost limit increases:

1. For projects that may be performed by the employees of a public agency, by negotiated contract, or by purchase order from $45,000 to $60,000; and

2. For informal bidding from $175,000 to $200,000.

This bill also allows an agency to exceed the $200,000 threshold and award a contract at $212,500 or less in cases where all bids exceed $200,000, and the governing body approves the higher amount by adopting a resolution by a four-fifths vote and determines the public agency's cost estimate was reasonable.

This bill provides that the Controller will only notify participating public agencies, rather than all public agencies. Accordingly, agencies that are not part of the volunteer program, but track the program's cost limits, should note that they will no longer get notice of cost limit changes.

(*AB 2249 amends Sections 22020, 22032, and 22034 of the Public Contract Code.*)

AB 2263 – Developments of Designated Historical Sites Are Entitled to a Reduction in Required Parking.

In an effort to increase affordable housing construction and reduce the costs of development, AB 2263 requires local agencies to provide specified reductions in required parking for developments projects involving "designated historical resources." A "designated historical resource" is a structure or property designated on a local register of historic places, the California Register of Historical Resources, or the National Register of Historic Places. Under AB 2263, a local agency may not require any additional parking if the development of a designated historical resource involves a residential development within a half-mile of a major transit stop. If the development is for nonresidential use, the local agency must provide a 25% reduction in the amount parking that would otherwise be required.

(*AB 2263 adds Section 18962 to the Health and Safety Code.*)

AB 2557 – Creates an Explicit Provision Providing for the Appointment of Ex Officio Directors for Nonprofit Corporations and Cooperatives.

Many people presume that ex officio directors are permitted under the law. However, the law actually lacks an express authorization for ex officio directors to serve on the boards of nonprofit corporations. This bill adds this express authorization to the Corporations Code.

This bill provides that ex officio directors may sit on the boards of nonprofit public benefit corporations, nonprofit mutual benefit corporations, nonprofit religious corporations, and cooperative corporations. The law defines an ex officio director as a person who holds office as a director by virtue of holding another specified position, either within or outside the corporation. The term of office of an ex officio director coincides with that director's time in the specified position entitling them to serve on the board. Once that time ends, that person's term as an ex officio director ends. For example, a nonprofit school's bylaws may provide that upon retiring the principal or head of the school will serve as an ex officio director of the board. Under AB 2557, that person will serve in that role until their successor retires as principal, at which point the successor steps into the ex officio board role.

Nonprofits should revisit their bylaws to assess how ex officio members are treated. For example, unless bylaws specifically state otherwise, all directors – including ex officio directors – have voting rights. Ex officio is not a synonym for non-voting. Instead, as codified by AB 2557 an ex officio director is someone that gets to sit on the board simply because they had or have another official position with the organization. Unless specified otherwise in the bylaws, that ex officio director has all the same rights as other directors on the board, including voting rights.

(*AB 2557 amends Sections 5211, 5220, 7220, 9920, 12360 of the Corporations Code.*)

AB 2986 – Requires Transportation Network Companies to Disclose Driver Information.

Many private schools permit or even utilize transportation network companies, such as Uber, Lyft, and HopSkipDrive. This new law requires a transportation network company to provide information about the transportation network company driver to the passenger on its online-enabled application or platform at the time that the passenger is matched to that driver, including the transportation network company driver's first name and a picture of the driver, an image of the make and model of the driver's vehicle, and the license plate number of the vehicle.

(*AB 2986 adds Section 5445.1 to the Public Utilities Code, relating to transportation.*)

AB 3058 – Inspectors of School Buildings with the Department of General Services Will be Required to Take New Examination and Undergo New Education and Training.

The Field Act requires the Department of General Services ("DGS") to supervise the design and construction of school buildings or reconstruction or alteration of school buildings. DGS is also tasked with periodically inspecting school buildings to ensure

compliance with the law. This bill revises the training and testing requirements for school construction project inspectors. Specifically, DGS must revise the inspector exam no later than three years after the last exam. Inspectors must be re-tested at least every four years. The evaluation and reevaluation of inspectors must meet education and training requirements determined by DGS. These new requirements will allow the DGS to keep up with changes in building codes, construction materials, and construction methods.

(AB 3058 amends Section 17311 of the Education Code.)

AB 3186 – Makes Best Value Contracting Rules Permanent for Community College Districts and the University of California.

The University of California ("UC") and community college districts are required to award goods and services contracts involving expenditures above a certain amount to the lowest responsible bidder. A pilot program, introduced in 2012, allows the contract selection process for these contracts to be based on the "best value."

Under the best value method, an agency advertises for bids. Bidders are verified as being responsible and responsive. Then, proposals are evaluated and scored based on costs and other criteria, such as lifetime costs, use of sustainable materials or practices, experience, timeliness, terms and conditions, or economic benefits to the community. The bidder with the highest score (not necessarily the lowest bid) receives the contract. The thinking is that "best value" procurement may yield long-term state savings and weed out bad vendors.

In 2012, the Legislature introduced "best value" procurement as a pilot program, though few if any community colleges implemented the written policies required to take advantage of the program. With AB 3186, the opportunity to adopt a "best value" system becomes permanent because the bill eliminated the January 1, 2019 repeal date initially included in the program. Certain reporting requirements have also been deleted.

To take advantage of "best value" procurement, districts need to adopt policies that address things such as: the objective performance criteria that will be used; a rating system; procedures for protest and resolution; methods for publicly advertising bids and announcing award determinations; and ways to ensure that the selection process is fair and equitable.

(AB 3186 amends Sections 10507.8 and 20651.7 of the Public Contract Code).

AB 3205 – Requires Schools Rehabbing School Interiors To Install Locks that Lock from The Inside.

A key recommendation following the review of several recent school shootings is that school buildings should have classroom doors that lock from the inside. In an effort to implement that recommendation, this bill requires school districts seeking state school facilities bond funds for modernization of school facilities built prior to 2012 to include locks that allow classroom doors to be locked from the inside in those projects. The bill applies to classrooms and any room that holds more than five people. Doors that are locked at all times, doors that already have locks that lock from the inside, and pupil restrooms are exempted from the requirement. Existing law already requires that all new school buildings have locks that lock from the inside. This bill addresses older school facilities, but it only applies to interior modernization projects seeking funding after January 1, 2019.

(AB 3205 adds Section 17583 to the Education Code).

SB 577 – California Community College – Teacher Credentialing Partnership Pilot Act.

This bill addresses teacher shortages by allowing aspiring teachers to take classes toward their credential on community college campuses. This bill establishes the California Community College Teacher Credentialing Partnership Pilot Program. Under the pilot program, grants will be available to a "collaborative" of one or more teacher-credentialing higher education institutions partnering with one or more community colleges for the purpose of offering teacher credentialing classes at community colleges.

This bill authorizes the Commission on Teacher Credentialing, in coordination with the Chancellor of the California Community Colleges, to award up to three grants, not to exceed $500,000 each, to collaboratives formed to offer teacher credential coursework remotely at a participating community college. Collaboratives located in areas of with low rates of K-12 credentialed teachers receive priority for grant funding.

Grant funds may be used for:

- Professional development for effective distance learning;
- Deploying a teaching assistant for the community college classroom or classrooms where courses are offered via distance learning;
- Technology upgrades for the community college classroom or classrooms where the distance learning courses are offered;
- Student retention, outreach, or engagement;
- Data monitoring and systems infrastructure;
- Cross system alignment; and
- Other startup costs that are necessary for developing and implementing its pilot program.

Each program implemented under this bill must meet certain requirements. The program must use current faculty to teach pre-existing courses offered as part of an accredited teaching-credentialing program. The program must focus its recruitment efforts on teachers already holding a baccalaureate degree who are currently teaching on a short-term staff permit or provisional internship permit.

The program runs until 2023, when the Legislative Analyst's office is required to submit a report on the implementation of the program.

(SB 577 *amends Section 44259 of the Education Code and adds Section 78060 to the Education Code.*)

SB 100 – California Must Achieve 100 Percent Clean Energy by 2045.

SB 100 requires the State of California to achieve 100 percent clean and renewable energy by 2045. SB 100 will be known as The 100 Percent Clean Energy Act of 2018. When Governor Brown signed SB 100, he also signed an executive order establishing that California's new statewide goal to achieve carbon neutrality is 2045. Current law requires that the State achieve 50 percent carbon neutrality by 2030. The ambitious modification increases from 50 percent to 60 percent by 2030, and doubles that 50 percent goal by requiring that renewable energy and zero-carbon resources supply 100 percent of electricity for California end-use customers and state agencies by 2045. California is only the second state after Hawaii to require that all of its energy come from clean renewable sources.

The California Air Resources Board will work with state agencies to develop a framework for implementing and measuring carbon neutrality goals. State agencies will request the support of colleges, businesses, communities, and others to help California obtain all of its energy from clean sources.

Your agency or organization can get a help in achieving these goals by spreading the word across your communities and setting an example by achieving carbon neutrality within your own organization. You can get a head start on these statewide requirements by installing solar panels or implementing other proven methods of producing clean and eligible renewable energy resources. Another way of helping is to review policies to ensure that your agency or organization is complying with any applicable statutory requirements for awarding contracts to renewable energy resources companies.

Note:

We would be happy to assist districts in all their clean and renewable energy resource needs. Our attorneys include a LEED Green Associate, an accreditation by LEED as a professional with extensive knowledge of green design, construction, and operations.

(SB 100 amends Sections 399.11 through 299.30 of the Public Utilities Code and adds Section 454.53 to the Public Utilities Code)

EMPLOYMENT

CREDENTIALING

AB 2285 – Amends Requirements for Out-of-State Teachers to Obtain a California Credential.

Previous law set forth certain requirements for teachers credentialed in other states to obtain a clear California credential, including 150 clock hours of activities that contribute to the person's competence, performance, and effectiveness in the teaching profession. This bill removes the requirement for out-of-state prepared teachers seeking a clear teaching credential in California to earn a master's degree or complete 150 hours of professional development. Further, this bill allows out-of-state prepared teachers seeking a secondary credential in California to demonstrate English Language development knowledge by earning either the CLAD certificate or an English Learner Authorization.

(AB 2285 amends Section 44274.2 of the Education Code.)

DISCIPLINE

AB 2128 – Amends Provisions Related to the Statute of Limitations for Certain Disciplinary Charges against Teachers.

Education Code section 44944 previously provided that a school district may not introduce testimony, evidence, or evidence of records regularly kept by the governing board concerning the employee, where the testimony, evidence, or records related to matters which occurred four years before the date of the filing of the notice of discipline except for allegations of an act described in Education Code section 44010 (certain sex offenses), Penal Code sections 11165.2 to 11165.6, inclusive (child abuse, neglect, corporal punishment). AB 2128 expands the circumstances under which a school district may introduce evidence over four years old in a teacher disciplinary matter.

A school district may introduce evidence and testimony that occurred more than four years before issuance of the filing of the notice of discipline as follows:

- Where the evidence and testimony is regarding allegations of behavior or communication of a sexual nature with a pupil that is beyond the scope or requirements of the educational program, which may constitute misconduct, or an act described in Education Code section 212.5 (sexual harassment), in a disciplinary proceeding based on similar conduct. In other words, evidence that the teacher has engaged in similar conduct with other students, demonstrating a pattern or predilection for the behavior. A school district may only introduce this evidence if the allegations have been substantiated through an investigation or proceeding, or for which the employee was previously subject to discipline.
- Where the evidence or testimony is regarding allegations of an act described in Penal Code section 288 (lewd and lascivious conduct against a child), Penal Code section 288.3 (contacting a minor with the intent to commit a specified sex crime), Education Code section 44010 (certain sex crimes), or Penal Code sections 11165.2 to 11165.6, inclusive (child abuse, neglect, corporal punishment).

(AB 2128 amends Section 44944 of the Education Code.)

AB 2234 – Amends Provisions Regarding Subpoenas and Court Orders for Student Contact Information; Provides Procedures for Testimony of Minor Witnesses for K-12 Certificated and Classified Disciplinary Hearings.

<u>Student Records</u>

Current law requires a school district to provide pupil records in response to a court order or lawfully issued subpoena, and to notify the parent or legal guardian in advance of compliance with the court order or subpoena. Where a subpoena seeks pupil contact information, this bill requires a district to make a reasonable effort to enter into an agreement with the entity that obtained the

court order or subpoena requiring the entity to maintain pupil contact information in a confidential manner. In addition, a party that obtains pupil contact information must not use or disseminate that information for any purpose except as authorized by the court order or subpoena.

Certificated Discipline Hearings

This bill provides an administrative law judge (hereafter "judge") with the discretion to employ alternative hearing procedures to protect the rights of minor witnesses, the rights of the respondent, and the integrity of the judicial process. The bill provides that the judge must balance the rights of the respondent against the need to protect a minor witness and to preserve the integrity of the truth-finding function. The Legislature intends that the judge's discretion to be used selectively when the facts and circumstances in an individual case present compelling evidence of the need to use these alternative procedures.

In an administrative proceeding under Education Code section 44934.1, based on allegations of egregious misconduct involving a minor, counsel for a school district may apply to the judge for an order that the minor's testimony be taken in a room outside the hearing room and be televised by two-way closed-circuit television. Counsel for the school district bears the burden of proving that such an order is justified. The person seeking this order, must apply for it at least seven days before the hearing date, unless the judge finds on the record that the need for such an order was not reasonably foreseeable.

A judge may order that the testimony of the minor be taken pursuant to this procedure if the judge finds that the minor is unable to testify in the hearing room in the presence of the respondent for any of the following reasons:

- The minor is unable to testify because of emotional distress, established by a written statement of the minor, the minor's parent or guardian, the minor's support person, or a mental health professional who has evaluated the minor;
- There is a substantial likelihood, established by expert testimony, that the minor would suffer emotional distress from testifying;
- According to expert testimony, the minor suffers from a medical condition, mental condition, or other infirmity; or
- The judge finds that the conduct of the respondent or his or her representative causes the minor to be unable to continue testifying.

If the judge orders this procedure, counsel for the school district and a representative of the respondent (not including a respondent represented by him or herself) will be present in the room in which the testimony is taken. The minor will be subjected to direct and cross-examination. The only other persons permitted to be in the room are:

- Any persons necessary to operate closed-circuit television equipment;
- The parent or guardian of the minor; and
- Any other persons whose presence is determined by the judge to be necessary to the welfare and well-being of the minor, including a judicial officer or support person.

The minor's testimony will be under oath and transmitted by closed-circuit television into the hearing room for viewing and hearing by respondent, the judge, and any members of the public in attendance. The close-circuit television transmission shall relay into the room in which the minor is testifying the respondent's image and the voice of the judge. The respondent must be provided with the means of private, contemporaneous communication with his or her respondent during the testimony.

In making rulings required by these provisions, the judge must consider:

- The age, maturity, and cognitive ability of the minor, compared with other minors of the same age;
- The relationship between the minor and the respondent;
- Any handicap or disability of the minor; and

- The nature of the acts alleged to have been committed by the respondent.

The school district may also apply for an order that a videotaped deposition be taken of the minor's testimony and used in lieu of live testimony. This will be based on the same criteria for requesting the minor testify via closed-circuit television, and the burden is on counsel for the district to demonstrate the necessity of such an order. Upon timely application by counsel for the school district for this order, the judge must make a preliminary finding regarding whether the minor is unable to testify in the hearing room in the presence of the respondent, the judge, and the public. If the judge makes this finding, the judge must order the deposition by videotape. The judge must preside at the videotaped deposition and shall rule on all questions as if at a hearing. The respondent must be afforded the right to be confronted with the witness and the right to cross-examine the minor.

The only other persons who may be present during the deposition are: (1) counsel for the school district; (2) representative of the respondent; (3) any persons necessary to operate the video equipment; (4) the respondent, unless the judge excludes the respondent from the hearing room; (5) the parent or guardian of the minor; and (6) any support person. If the judge's preliminary finding as described above is based on evidence that the minor is unable to testify in the physical presence of the respondent, the judge may order that the respondent be excluded from the room, even if the respondent is representing him- or herself. The deposition will take place via two-way closed circuit television to relay the respondent's image into the room in which the minor is testifying, and the minor's testimony into the room in which the respondent is viewing the proceeding. The judge must provide the respondent with a means of private, contemporaneous communication with his or her representative.

The complete record of the videotaped deposition, including the image and voices of all persons who participate must be made and preserved on videotape in addition to being stenographically recorded. The videotape must be transmitted to the judge's office, and shall be made available for viewing for counsel for the district, representative of the respondent, and the respondent during ordinary business hours. If the judge determines the minor is unavailable for hearing because the minor cannot be present in the same room as the respondent, the judge may admit into evidence the videotaped deposition in lieu of live testimony. The judge may order an additional videotaped deposition of the minor if he received notice that new evidence has been discovered after the original videotaping.

"Support person" is defined as an adult attendant, victim advocate, or other witness who is able, because of education, experience, or familiarity with the minor, to ensure that the minor's mental health, welfare, and well-being are protected. "Representative of the respondent" means either counsel for, or an exclusive labor representative of, the respondent.

A support person selected by the minor witness shall be appointed for the minor witness at the onset of the hearing, unless that person does not have the education, experience, and familiarity with the minor to protect the minor's mental health, welfare, and well-being. A parent or guardian of the minor witness shall be presumed to be qualified to serve as the support person. The judge shall select a support person if: (1) the minor does not make a selection or the selection does not meet these requirements; and (2) the judge determines that the parent or guardian is not qualified to serve as the support person. If the respondent wishes to contact the minor witness, the respondent must contact the support person to coordinate any legal contact such as interview, deposition, or other hearing preparation task. The respondent may not use a private investigator or similar professional to make contact with the minor. The judge may allow the support person to remain in close physical proximity to the minor while the minor testifies. A support person shall not provide the minor with an answer to any question during the minor's testimony. The support person shall assist the minor to express the minor's views concerning the personal consequences of the minor's victimization, at a level and form of communication commensurate with the minor's age, maturity, and cognitive ability. A support person may also, but need not, be assigned to a minor witness who was not a direct victim of the alleged egregious misconduct.

If the witness is under 18 years old or a dependent person with a substantial cognitive impairment, the judge shall take special care to protect the witness from undue harassment or embarrassment and to restrict the unnecessary repetition of questions. The judge must also ensure that questions are stated in a form that is appropriate to the age, maturity, or cognitive level of the witness. The judge may, on objection of a party and in the interests of justice, forbid the asking of a question in a form that is not reasonably likely to be understood by a person of the age, maturity, or cognitive level of the witness. During a minor's testimony, the judge may order the exclusion from the hearing room all persons, including members of the press, who do not have a direct interest in the change. The judge may make this order if the judge determines that requiring the minor to testify in the open hearing room would cause substantial psychological harm to the minor or would result in the minor's inability to effectively communicate.

Classified Discipline Hearings

This bill provides that the governing board of as school district must delegate its authority to an administrative law judge presiding over a suspension or dismissal hearing to determine whether sufficient cause exists for disciplinary actions against classified employees involving allegations of misconduct, as defined in the disciplinary provisions relating to certificated employees (Education Code section 44932). The bill also provides that a judge who presides over the hearing must conduct that hearing in accordance with the provisions for minor witnesses which are provided for in this bill as well as in compliance with Education Code 49077 which addresses subpoenas for student records and which this bill also amended, as described above.

These rules are the same for both merit and non-merit system districts.

(AB 2234 amends Sections 45113 and 45312 of the Education Code and adds Sections 44990, 44991, 44992, 44993, and 44994 to the Education Code.)

EMPLOYMENT CLASSIFICATION

AB 2160 – Includes Part-time Playground Positions in the Classified Service for Merit System School Districts and Community College Districts.

In 2018, AB 670 removed the exception from the classified service for part-time playground positions for non-merit system school districts, thus including part-time playground positions in the classified service. AB 2160 follows AB 670 and includes part-time playground positions in the classified service of merit system school districts, merit system community college districts and non-merit community college districts.

Employees employed in part-time playground positions as of the effective date of this bill must be deemed a permanent employee of the school district without placement on an eligibly list or examination.

(AB 2160 amends Sections 45256, 88003, and 88076 of the Education Code.)

AB 2261 – Adds Positions Established to Employ Community Representatives in Advisory or Consulting Positions to the Classified Service for Merit System School District.

This bill adds positions established for the employment of community representatives in advisory or consulting capacities to the classified service. The requirement of this bill is limited to merit systems school districts. The bill repeals the exemption for community representatives in advisory or consulting capacities for not more than 90 days from the exemptions to the classified service under the merit system of a school district.

(AB 2261 amends Section 45258 of the Education Code.)

HARASSMENT/ DISCRIMINATION/ RETALIATION

AB 2770 – Employee Sexual Harassment Complaints Are Privileged Communications.

Civil Code section 47(c) defines privileged publications and broadcasts that can be used as a defense to claims of defamation. Included among these is the so-called "common interest privilege," which allows employers to provide factual information without malice about current or former employees to a prospective employer, including whether the employer would rehire the employee.

AB 2770 expands the categories of privileged communications not subject to defamation claims under this subsection to now include the following:

1. Complaints of sexual harassment made by an employee, without malice, to an employer based on creditable evidence;
2. Communications between the employer and interested persons, without malice, regarding a complaint of sexual harassment; and
3. Communications from an employer, without malice, regarding a current or former employee to a prospective employer of that employee to note if they would rehire the current or former employee and whether such decision is based upon the employer's determination that the employee engaged in sexual harassment.

Districts should examine their policies about the disclosure of information to prospective employers about current and former employees to determine if such procedures should be modified in light of AB 2770. While AB 2770 does not mandate that an employer disclose any information regarding a current or former employee to a prospective employer, districts should also be cautious about what information to provide. The reference in Civil Code section 47(c) to "*without malice*" is generally interpreted to mean that the information disclosed must be objective and factual, and not based solely on an opinion. In addition, there is also case law noting that an employer may be liable for providing a positive reference to a prospective employer when the employer knew of employee misconduct, which could include sustained claims of sexual harassment. Neutral references that merely provide dates of employment and job positions held will not establish such liability.

(AB 2770 amends Section 47 of the Civil Code.)

AB 3109 – Voids Waivers of Right to Testify About Alleged Criminal Conduct or Sexual Harassment.

AB 3109 prohibits a contract or settlement agreement from limiting or waiving a party's right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment on the part of the other party to the contract where the party has been required or requested to attend the proceeding. Any such provisions will be void and enforceable in a contract or settlement agreement entered into on or after January 1, 2019. A party is deemed required or requested to attend a proceeding when it is pursuant to a court order, subpoena, or written request from an administrative agency or the legislature.

Districts must ensure that any contracts or settlements entered into on or after January 1, 2019 do not limit or waive a party's right to testify in a proceeding concerning alleged criminal conduct or sexual harassment.

(AB 3109 adds Section 1670.11 to the Civil Code.)

SB 224 – Amends Elements for Sexual Harassment Claims Under the Civil Code.

Civil Code section 51.9 of the Unruh Act imposes liability for sexual harassment in a non-employment context involving business, service, and professional relationships (e.g., physician, attorney, real estate agent, loan officer, financial planner, landlord, teacher, etc.). Currently, sexual harassment liability exists under Section 51.9 when a plaintiff shows that such a business, service, or professional relationship

exists between the plaintiff and defendant and the following elements are met:

1. The defendant has made sexual advances, solicitations, sexual requests, demands for sexual compliance, or engaged in other verbal, visual, or physical conduct that were unwelcome and pervasive or severe and based on gender;
2. The plaintiff could not easily terminate the relationship; and
3. The plaintiff has suffered or will suffer economic loss or disadvantage or personal injury as a result of the defendant's conduct.

SB 224 removes the second element noted above "*The plaintiff could not easily terminate the relationship*" – in order to bring a cause of action for sexual harassment under Section 51.9.

The bill also adds "elected official," "lobbyist" and "director or producer" to the list of examples of individuals who can be subject to liability if they engage in sexual harassment in such business, service and professional relationships. As applied to school and community college districts, the addition of "elected official" could now expand liability of an elected official for any sexual harassment towards others in a business, service or professional relationship. According to the bill's author, elected officials have particular influence over their staff and lobbyists, which warranted including them under this law.

This bill also makes the Department of Fair Employment and Housing ("DFEH") responsible for enforcing sexual harassment claims under section 51.9 and makes it unlawful to deny or aid, incite, or conspire in the denial of a person's rights related to sexual harassment claims.

(SB 224 amends Section 51.9 of the Civil Code and amends Sections 12930 and 12948 of the Government Code.)

SB 820 – Settlement Agreements Cannot Prevent Disclosure of Sexual Harassment or Sexual Assault Information.

Effective with any settlement agreements entered into on or after January 1, 2019, SB 820 prohibit confidentiality provisions in settlement agreements that limit the disclosure of factual information related to:

1. Sexual assault;
2. Sexual harassment involving business, service, or professional relationships as defined in Civil Code section 51.9 of the Unruh Act; or
3. Workplace harassment or discrimination based on sex, failure to prevent an act of workplace harassment or discrimination based on sex, or an act of retaliation against a person for reporting harassment or discrimination based on sex as provided under Government Code section 12940 of the Fair Employment and Housing Act.

Any such confidentiality provisions in settlement agreements, entered into on or after January 1, 2019, are void as a matter of law and against public policy.

Districts should note this restriction on settlement agreements and work with legal counsel to ensure that any settlement agreements entered into on or after January 1, 2019 do not limit or seek to limit a party's disclosure of information related to sexual assault, sexual harassment, or discrimination based on sex.

(SB 820 adds Section 1001 to the Code of Civil Procedure.)

SB 1300 – Creates New Employee Protections Impacting FEHA Claims for Discrimination, Retaliation, and Harassment.

SB 1300 makes a significant number of changes related to the handling of and determining liability for discrimination, retaliation, and harassment claims under the Fair Employment and Housing Act ("FEHA"), including the following:

New Section 12923 Expands Harassment and Discrimination Liability Under FEHA

SB 1300 creates a new Government Code section 12923 under FEHA, which mandates the following:

- The "*severe and pervasive*" legal standard is rejected, so that a single incident of harassing conduct is now sufficient to create a triable issue of fact regarding the existence of a hostile work environment;
- A plaintiff no longer needs to prove his or her "tangible productivity" declined as a result of harassment in a workplace harassment suit, and may instead show a "reasonable person" subject to the alleged discriminatory conduct would find the harassment altered working conditions so as to make it more difficult to work;
- Any discriminatory remark, even if made by a non-decision maker or not made directly in the context of an employment decision, may be relevant evidence of discrimination in a FEHA claim;
- The legal standard for sexual harassment will not vary by type of workplace, and courts will therefore only consider the nature of the workplace in a harassment claim when "*engaging in or witnessing prurient conduct or commentary*" is integral to the performance of an employee's job duties; and
- Establishes the Legislature's intent that "*[h]arassment cases [under FEHA] are rarely appropriate for disposition on summary judgment.*" This means that FEHA harassment claims will be more difficult to get dismissed in court before trial, regardless of the merit of the allegations.

Limitations on Recovery of Attorney's Fees by Prevailing Employer in FEHA Cases

SB 1300 limits a prevailing employer's ability in a FEHA case to recover attorney and expert witness fees unless a court finds a plaintiff's action was "*frivolous, unreasonable, or totally without foundation.*"

Limitations on Use of Non-Disparagement Agreements, Confidentiality Agreements and Waiver of FEHA Claims

SB 1300 also prohibits an employer from requiring that an employee sign a non-disparagement agreement, confidentiality agreement, or any other document denying the employee the right to disclose information about unlawful acts in the workplace, including sexual harassment. SB 1300 also makes it unlawful for an employer to require an employee to waive FEHA rights in exchange for a raise or bonus or as a condition of employment unless the release is a voluntarily negotiated settlement agreement filed by an employee in court or an alternative dispute resolution forum, before an administrative agency, or through an employer's internal complaint process.

Option for Employers to Provide Bystander Intervention Training

Finally, SB 1300 allows, but does not require, an employer to provide "*bystander intervention training*" to enable bystanders to identify problematic behaviors in the workplace, including sexual harassment, and intervene as appropriate.

In summary, SB 1300's changes to FEHA will make it much easier for employees to file, litigate, and prevail on harassment and discrimination claims against California employers. Accordingly, it is vital that employers take effective corrective action immediately when claims of harassment or discrimination arise. Employers should also review their harassment and discrimination policies to ensure they are compliant with these changes to FEHA. Employers should also consult with legal counsel regarding the use of non-disparagement agreements, confidentiality agreements, and waivers of FEHA claims that may be limited by these new statutes.

(SB 1300 amends Sections 12940 and 12965 and adds Sections 12923, 12950.2, and 12964.5 to the Government Code.)

SB 1343 – Requires Employers to Provide Sexual Harassment Trainings to Supervisory and Non-Supervisory Employees.

The California Fair Employment and Housing Act ("FEHA") currently requires public employers to provide at least two hours of training and education on sexual harassment, abusive conduct, and harassment based on gender to all supervisory employees within six months of attaining a supervisory position and once every two years. This is commonly referred to as "AB 1825 supervisor harassment trainings," named after the 2004 legislation that created this requirement.

SB 1343 will now also require public employers to provide at least one hour of sexual harassment training to ***nonsupervisory employees*** **by January 1, 2020**, in addition to the existing requirement to provide two hours of sexual harassment training to supervisory employees. The trainings must be provided in a "*classroom or effective interactive training*" environment either individually or as part of a group presentation. Similar to the existing supervisory harassment trainings, the trainings must be provided to nonsupervisory employees within six months of their assumption of a position and once every two years thereafter.

Beginning January 1, 2020, an employer must provide sexual harassment trainings to all seasonal employees, temporary employees, and any employee hired to work for less than six months within 30 calendar days after the hire date or within 100 hours worked, whichever occurs first. If a temporary employee is employed by a temp agency to perform services for a public agency, the temp agency shall provide the training and not the public agency.

SB 1343 also mandates that the California Department of Fair Employment and Housing ("DFEH") create two online trainings courses—one supervisory, and one nonsupervisory—to be made available on its website so employers may comply with these sexual harassment training requirements for both nonsupervisory and supervisory employees.

Employers should review all training materials and procedures to ensure they are satisfying not only their existing obligations, but also all new requirements established by these new bills. This is especially important now that personal liability under FEHA has been expanded to include unlawful retaliation under SB 1300 (referenced above).

(SB 1343 amends Sections 12950 and 12950.1 of the Government Code.)

HIRING

AB 2282 – Clarifies Elements of California's Salary History and Equal Pay Statutes.

California's salary history statute, Labor Code section 432.3, went into effect January 1, 2018. In short, Labor Code section 432.3 prohibits employers from seeking an applicant's salary history in previous employment, requires an employer to provide an applicant with the pay scale for the position upon reasonable request, and restricts how employers can use properly obtained salary history information.

AB 2282 clarifies that a current employee who applies for a different position with the same employer is not considered an "*applicant*" as referenced in section 432.3. This clarification to the law avoids placing the employer in the untenable position of being required to avoid consideration of salary history information that is already in their possession. For purposes of clarification, AB 2282 defines "*pay scale*" as "*a salary or hourly wage range.*" AB 2282 further revises subdivision (c) of Labor Code 432.3 to define a "*reasonable request*" for a pay scale as "*a request made after an applicant has completed an initial interview with the employer.*" Therefore, an employer is not required to comply with a request for a pay scale from an applicant who has not yet completed an interview. AB 2282 also clarifies that employers are not prohibited from asking an applicant about his or her salary expectation for the position he or she is applying for.

California's Equal Pay Act (Labor Code section 1197.5) currently prohibits employers from relying solely on an applicant's previous salary in making pay determinations. AB 2282 revises section 1197.5 to maintain that prohibition, but to also specifically permit an employer to make a compensation decision

for one of its current employees based on that current employee's existing salary, so long as any wage differential resulting from that compensation is justified by one of the bona fide factors noted in the law. This includes a seniority system, a merit system, a system that measures earning by quantitate or quality of production, or a bona fide factor other than race or ethnicity, such as education, training, or experience.

(AB 2282 amends Sections 432.3 and 1197.5 of the Labor Code.)

1412 – Clarifies Employers Are Not Prohibited from Seeking Criminal History Information When Required by State or Federal Law.

Labor Code section 432.7 currently prohibits employers from asking an applicant to disclose or considering information related to a criminal conviction that has been judicially sealed or ordered sealed. However, section 432.7 does not prohibit employers from asking about criminal convictions that have been judicially sealed or expunged if the employer is required to obtain such criminal conviction information pursuant to state or federal law.

SB 1412 confirms that employers are not prohibited from seeking or receiving an applicant's criminal conviction history, including those convictions that have been judicially sealed or expunged, if the employer is required by state, federal, or local law to conduct criminal background checks for employment purposes.

However, SB 1412 limits the ability of an employer to gather such criminal conviction history only to those "*particular convictions*" that are either required by state or federal law to be reviewed or that would preclude the applicant from holding the position sought by state or federal law.

The purpose of this bill is to limit the review by employers of judicially sealed and expunged convictions only to those particular convictions that are required to be considered under any applicable state or federal law. Districts should ensure that when asking for criminal conviction information in the hiring process involving convictions that have been judicially sealed or expunged that are required to be reviewed under state or federal law, that they only focus on those particular convictions noted in the relevant state or federal law.

This bill only impacts those situations where employers are obligated under state or federal law to consider criminal convictions that have been judicially sealed or expunged. For employers not required by state or federal law to consider an applicant's criminal convictions, they are still obligated to follow the restrictions in section 432.7 and to not request criminal history information until a conditional offer of employment has been made as provided in Government Code section 12952. Districts should closely review their current employment applications and overall hiring practices to ensure compliance with these laws.

(SB 1412 amends Section 432.7 of the Labor Code.)

HEALTH AND BENEFITS

AB 1976 – Ensures Employers Provide Lactation Accommodations in Rooms or Spaces Other than Bathrooms.

California law currently requires every employer to provide a reasonable amount of break time to accommodate employees who want to pump or express breast milk for an infant child. Existing law requires employers to make reasonable efforts to provide employees with the use of a room or other location, other than a toilet stall, close to the employee's work area to express breast milk in private.

While existing law provides that the lactation location cannot be a toilet stall, AB 1976 expands this to now require that the lactation location not be anywhere in a bathroom. According to the bill's author, the purpose of this change is to avoid requiring employees to express breast milk in a bathroom environment that is neither comfortable nor sanitary.

AB 1976 provides that an employer complies with this law if the employer provides a temporary lactation location that meets all of the following requirements:

1. The employer is unable to provide a permanent lactation location because of operational, financial, or space limitations;
2. The temporary location must be private and free from intrusion while an employee expresses milk;
3. The temporary location is used only for lactation purposes while an employee expresses breast milk; and
4. The temporary location otherwise meets the California law requirements for lactation accommodations. (Labor Code sections 1030-1033)

AB 1976 also creates an exemption for employers who can demonstrate to the Department of Industrial Relations ("DIR") that providing a room or location, other than a bathroom, would impose an undue hardship when considering the size, nature, and structure of the employer's business. If an employer is granted an exemption by the DIR, the employer is still required to make reasonable efforts to provide an employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area to express breast milk in private.

Districts should review their lactation accommodation policies to ensure that any rooms or spaces used for lactation accommodations satisfy these new requirements.

(AB 1976 amends Section 1031 of the Labor Code.)

AB 2587 – Clean-Up Bill to PFL Benefits Law to Clarify Elimination of Seven-Day Waiting Period.

California offers the Paid Family Leave ("PFL") program to provide wage replacement benefits to employees who take time off to care for a seriously ill family member or to bond with a minor child within one year of birth or placement with a family. The PFL program is part of the state disability insurance ("SDI") program. While PFL provides wage replacement benefits for an employee who is out of work for a qualifying reason, it does not provide the employee an entitlement to a leave of absence for such reason.

In 2016, California passed AB 908 to amend PFL benefits. The amendment eliminated the seven-day waiting period an employee had to wait to receive PFL benefits effective January 1, 2018.

Since there is no longer a seven-day waiting period for PFL benefits, AB 2587 is clean-up legislation that deletes an outdated reference to the former seven-day waiting period in Unemployment Insurance Code section 3303.1, but does not otherwise substantively change the PFL benefits program.

Not all districts have opted into the PFL benefit programs. Therefore, only employees of districts that participate in the PFL program would not be entitled to these benefits.

(AB 2587 amends Section 3303.1 of the Unemployment Insurance Code.)

SB 1123 – Expands Scope of PFL to Cover Covered Active Duty for Employees or Family Members in the Armed Forces.

California offers the Paid Family Leave ("PFL") program to provide wage replacement benefits to employees who take time off to care for a seriously ill family member or to bond with a minor child within one year of birth or placement with a family.

Beginning January 1, 2021, SB 1123 expands the scope of providing PFL benefits to include time off to participate in a qualifying exigency related to covered active duty or a call to covered active duty for an individual's spouse, domestic partner, child, or parent in the Armed Forces of the United States. SB 1123 adds a new Unemployment Insurance Code section 3302.2, which outlines a list of "*qualifying exigencies*" that matches those provided under the federal Family Medical Leave Act ("FMLA") for a qualifying exigency leave of absence, including the following:

1. Short-Notice Deployment
2. Military Events and Related Activities
3. Childcare and School Activities
4. Financial and Legal Arrangements
5. Counseling
6. Rest and Recuperation
7. Post-Deployment Activities
8. Parental Care
9. Additional Activities

Not all districts have opted into the PFL benefit programs. Therefore, only employees of districts that participate in the PFL program would not be entitled to these benefits.

(SB 1123 amends, repeals, and adds Sections 3301, 3302.1, 3303, and 3303.1 and adds Sections 3302.2 and 3307 to the Unemployment Insurance Code.)

LABOR RELATIONS

SB 846 – Creates a Complete Defense to Public Agencies for Deducting Agency Shop Fees Prior to U.S. Supreme Court Decision in Janus v. AFSCME.

On June 27, 2018, the United States Supreme Court held that mandatory agency shop service fees are unconstitutional under the First Amendment of the United States Constitution in *Janus v. AFSCME* (2018) 138 S.Ct. 2448. Prior to the *Janus* decision, public employers and employee organizations relied on, and abided by, state law to deduct and accept agency shop fees.

SB 846 creates statutory indemnification for public employers, employee organizations, and any of their employees or agents who collected agency shop fees prior to *Janus*. **SB 846 is urgency legislation that went into effect upon the Governor's approval of the bill on September 14, 2018.**

Under SB 846, public employers, employee organizations, and any of their employees of agents are not liable and have a complete defense to any claims of actions for requiring, deducting, receiving, or retaining agency fees from public employees if the fees were permitted at the time and paid prior to the date of the *Janus* decision on June 27, 2018. This statutory indemnification applies to claims and actions pending as of September 14, 2018, as well as claims filed on or after September 14, 2018.

For districts, SB 846 creates certainty that they will not be liable for relying on existing state laws authorizing the collection of agency fees prior to the *Janus* decision on June 27, 2018. If a public employee were to try to bring a lawsuit against a public agency for deducting agency shop fees from his/her wages, this bill provides a complete defense to any such claims.

(SB 846 amends Sections 1159, 19230, 19232, 19236, 19237, and 31552.5 of the Government Code, amends Section 101853.1 of the Health and Safety Code, and adds Section 10298.1 of the Public Contract Code.)

SB 866 – Post-Janus Legislation Provides Public Employee Unions Greater Control Over Dues, Communications, and New Employee Orientations.

Immediately after the United States Supreme Court decided *Janus v. AFSCME* (2018) 138 S.Ct. 2448, Governor Brown signed into law SB 866. **This law was urgency legislation that became effective immediately on June 27, 2018.** Among other things, SB 866 amends the Government Code and creates new state laws regulating: organization membership dues and membership-related fees; employer communications with employees about their rights to join or support, or refrain from joining or supporting unions; and the disclosure of the date, time, and place of the union's access to new employee orientations. The Government Code now requires public agencies, including school and community college districts to honor union requests to deduct voluntary union membership dues and initiation fees (distinct from agency fees) from employee wages and requires agencies to rely on union certifications that the union has and will maintain member dues deduction authorizations. Additionally,

if an employee requests to "cancel or change deductions," the agency must direct the employee to the union. Unions are responsible for processing these requests, not the public employer.

SB 866 also adds section 3553 to the Government Code which defines a "*mass communication*" as a "*written document, or script for an oral or recorded presentation or message, that is intended for delivery to multiple public employees*." A public agency that chooses to send mass communications to its employees or applicants concerning the right to "*join or support an employee organization, or to refrain from joining or supporting an employee organization*" must first meet and confer with the union about the content of the mass communication. If the employer and exclusive representative do not come to an agreement about the content of the communication, the employer may still choose to send its communication but must simultaneously send a communication of reasonable length provided by the exclusive representative.

SB 866 also requires that new employee orientations be confidential. In addition to existing law that provides exclusive representatives with mandatory access to new employee orientations following the passage of AB 119 in 2017, the newly enacted Government Code section 3556 requires that the "date, time, and place of the orientation shall not be disclosed to anyone other than the employees, the exclusive representative, or a vendor that is contracted to provide services for the purposes of the orientation."

LCW's Special Bulletin discussing SB 866 further is available here:

(SB 866 amends Sections 45060, 45168, 87833, and 88167 of the Education Code, amends Sections 1150, 1152, 1153, 1157.3, 1157.10, 3550, 3551, 3552, 3555.5, 3556, 18502, 18525.3, 18528, 18577, 18939, 18950, 19050.4, 19054.1, 19057.1, 19057.3, 19243, 19816.18, 19827.2, 22944.5, 23725, 31552.5, 71638, and 71824 of, adds Sections 1157.12, 3553, and 19995.1.5 to, repeals Section 19995.5 of, and repeals and adds Section 19051 of the Government Code, amends Section 101853.1 of the Health and Safety Code, adds Section 2716.5 to the Penal Code, adds Sections 14038, 14040, 14041, 14042, 14100, 14101, and 14105 to the Unemployment Insurance Code.)

SB 1085 – Creates Paid Leaves of Absence for Union Stewards and Officers.

Various labor relations laws grant public employees the right to form, join, and participate in employee organization activities, including the Educational Employment Relations Act ("EERA"). SB 1085 creates paid leave for stewards and officers to participate in employee organization or union activities.

Upon a request by an exclusive employee organization, SB 1085 requires public employers to grant reasonable leaves of absence without loss of compensation or other benefits for employees to serve as stewards or officers of the employee organization. The leave may be granted on a full-time, part-time, periodic, or intermittent basis. At the end of the leave, the employee has a right to reinstatement to the same position and work location he or she held before the leave, or, if not feasible, a substantially similar position without loss of seniority, rank, or classification.

Under SB 1085, the employee organization is not obligated to use leave and may terminate an employee's granted leave at any time, for any reason. The bill also requires the employee organization to reimburse the public agency for all compensation paid to the employee on leave, unless otherwise provided in a collective bargaining agreement or memorandum of understanding. An employee organization is required to make such reimbursements to the public agency on or before 30 days after receiving certification from the public agency showing payment to the employee.

The bill specifies that compensation during leave granted is required to include retirement contributions. During the leave, the employee is also entitled to earn full service credit and is required to pay his or her membership contributions, unless the employer has agreed to pay the contributions on the employee's behalf in a collective bargaining agreement or memorandum of understanding. The bill would also provide that a public employer is not liable for acts, omissions, or injuries suffered by employees that occur during the course and scope of the employee's leave.

The bill requires the public agency and employee organization to reach a mutual agreement on procedures for requesting and granting leave. As a result, this may be a hot topic at bargaining tables and districts must be prepared to meet and have discussions with employee organizations to come up with an agreement on how this new paid leave of absence will be provided.

For more information on SB 1085, please see LCW's blog post here:

(SB 1085 adds Section 3558.8 to the Government Code.)

LEAVES

AB 2012 – Increases Rate of Difference Pay for Use for Parental Leave to No Less than 50% of Salary.

Existing law provides that school and community college districts must allow any certificated or classified employee of a school district and any academic or classified employee of a community college district is entitled to utilize extended illness leave or differential leave pursuant to Education Code sections 44977, 44983, 45196, 87780, 87786 and 88196 during parental leave under the California Family Rights Act, for up to 12 workweeks. Under the previous version of the law, employees would receive the amount of pay provided for by the statute under which the District provides extended illness leave pay – either the difference between the employee's salary and the cost of the substitute (differential leave pay) or 50 percent of the employee's pay.

AB 2012 requires that school and community college districts pay employees who utilize differential leave for parental leave no less than 50 percent of their salary for the length of the leave for which an employee utilizes differential leave pay, regardless of the differential leave pay system used by the applicable school or community college district. Thus, if an employee would receive more than 50 percent of his or her salary under the differential leave pay system, a school or community college district may use its existing differential leave pay system to determine the rate of pay for the employee on leave. If an employee would receive less than 50 percent of his or her salary under the differential leave pay system, the school or community college district must pay the employee not less than 50 percent of his or her salary during the employee's parental leave. This applies to all certificated and classified employees of school districts and all academic and classified employees of community college districts.

(AB 2012 amends sections 44977.5, 45196.1, 87780.1, and 88196.1 of the Education Code.)

PAYROLL

SB 1252 – Provides Employees the Right to Receive a Copy of their Pay Statements.

Existing law requires an employer, semi-monthly or at the time of payment of wages, to furnish an employee, an accurate, itemized, written statement containing specified information regarding the amounts earned, hours worked, and the employee's identity, among other things, subject to certain variations. Existing law grants current and former employees of employers who are required to keep this information the right to inspect or copy records pertaining to their employment, upon reasonable request. Existing law requires an employer to respond to these requests within 21 calendar days and prescribes a penalty of $750 for an employer's failure to permit a current or former employee to inspect or copy records within that time, to be recovered by the employee or the Labor Commissioner.

SB 1252, which states that it is declaratory of existing law, provides that employees have the right to receive a copy of the employment records described above, which means that providing employees only the option to inspect the employment records does not comply with the labor code.

(SB 1252 amends Labor Code Section 226).

RETIREMENT

AB 2052 – Requires Employers to Pay Contributions Due to CalSTRS by Electronic Funds Transfer.

AB 2052 requires that employers make contributions due to CalSTRS via an electronic funds transfer method though an automated clearinghouse as prescribed by the CalSTRS Teachers Retirement Board. If an employer is unable to comply with this requirement, the employer may apply to the CalSTRS Teachers Retirement Board for a waiver of the requirement and that allows the employer to pay via an alternate method. The employer must demonstrate "good cause" for its inability to comply with the requirement. AB 2052 defines "automated clearinghouse" as any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between the banks or bank accounts.

This bill applies to contributions for both the defined benefit plan and the cash benefit program.

(AB 2052 adds Sections 23001.5 and 26301.7 to the Education Code.)

SB 1165 – Updates and Amends Various Provisions of the Education Code Relating to the State Teachers Retirement System.

This bill makes certain changes tot e rules regarding members eligible for concurrent retirement. For purposes of determining the final compensation for a member who is eligible for concurrent retirement, the compensation a person could earn for services rendered on a full-time basis under a retirement system has concurrent membership, will be considered compensation earnable if the compensation under the other system was not earned during the periods of service determined pursuant to subdivision (c) under the Defined Benefit Program. Previously, this service was considered compensation earnable if it was not performed "during the same pay period with service under the Defined Benefit Program." This further limits the ability of a member to receive credit for work in a concurrent retirement system.

This bill extends the time by which a district must provide the form in which the employee elects the Defined Benefit Program or Cash Benefit Program from 30 days to 60 calendar days after the date of the employee's signature.

This bill provides that any beneficiary of a member who was receiving disability retirement benefits who is entitled to a lump-sum payment because of the death of the member may waive the right to the lump-sum payment. This waiver constitutes a complete and immediate discharge of all of CalSTRS's obligations to, or on behalf of, the beneficiary.

A beneficiary may also waive the right to a lump-sum payment or survivor benefit allowance under the Defined Benefit Program. The waiver must be executed on a properly executed form prescribed by CalSTRS, and must acknowledge, where appropriate, that the benefit being waived is an ongoing benefit which may exceed the total amount of contributions and interest payable from the member's account as a result of the waiver. This waiver constitutes a complete and immediate discharge of all of CalSTRS's obligations to, or on behalf of, the beneficiary.

This bill changes the date upon which a member receiving disability retirement will be eligible for service retirement. Previously, it was the date the member attains normal retirement age or at a date when there is no dependent child. This bill revises that language and states that the member is eligible for service retirement either on the date the member attains normal retirement age or, if the member has an eligible dependent child, on the date the last dependent child becomes ineligible, whichever is later.

The bill revises provision related to a member's election for an actuarially modified retirement allowance payable through the life of the member and to any beneficiary. Under existing law, an employee could cancel the option elected if the option beneficiary is the retired member's spouse or former spouse and they have been divorced. The member may elect to receive the unmodified

retirement allowance or a new joint and survivor option. Under this bill, a retired member electing to receiver an unmodified or modified allowance under this provision, who is nor married at the time of the election and then later marries or registers in a domestic partnership, may later elect an option naming his new spouse or registered domestic partner as the option beneficiary. The bill provides for the method for election of the new option beneficiary.

This bill also provides that a member who is receiving an annuity under the Defined Benefit Supplement Plan while on a disability retirement and is still receiving the annuity when the disability allowance is terminated will continue to receive the annuity already in effect upon the member's service retirement. This will occur only if the member's service retirement benefit is effective the day after the date of the termination of the disability retirement.

This bill redefines "school year" to be the period beginning on July 1 of one calendar year and ending on June 30 of the following calendar year. This bill also changes all references to "year" to "school term" and makes other, similar technical amendments.

(AB 1165 amends Sections 22106.5, 22112.6, 22134, 22134.5, 22138.5, 22138.6, 22169, 22508, 22509, 22515, 22717, 23802, 23852, 24001, 24101, 24213, 24322, 25011, 25011.1, 25012, 25015, 25018, 25018.1, 25019, 25926, 26107, and 26127 of the Education Code.)

AB 1912 – Prohibits JPA Member Agencies from Disclaiming Retirement Liability for the JPA.

Existing law permits two or more public agencies to jointly exercise any power common to the contracting parties to create a Joint Powers Authority ("JPA"). A JPA is a separate public entity from the parties that are the members of the JPA. A JPA may enter into a contract with CalPERS for retirement benefits. Under current law, when a contract between a JPA and CalPERS terminates, the JPA must pay for any retirement liabilities because the JPA is the party to the contract, whereas the member agencies of the JPA are not parties and therefore, have no liability.

AB 1912 prohibits member agencies of JPA from disclaiming retirement liability of a JPA. If the JPA's agreement with CalPERS terminates or the JPA dissolves, this bill requires apportionment of retirement liability among the JPA member agencies. The purpose of AB 1912 is to require member agencies of a JPA to remit payments to CalPERS for any of the JPA's unfunded obligations to CalPERS.

This bill requires member agencies of a JPA to reach a mutual agreement about the apportionment of the agencies' retirement obligations amongst themselves prior to filing a notice to terminate a contract with CalPERS. The mutual agreement must equal 100% of the JPA's retirement liability. If member agencies are unable to mutually agree to the apportionment, AB 1912 requires CalPERS to apportion the retirement liability to each member agency and establish procedures for a member agency to challenge the Board's determination through arbitration.

AB 1912 applies retroactively to a member agency, or current and former member agency, that has an agreement with CalPERS on or before January 1, 2019, and to new agreements with CalPERS on or after that date.

(AB 1912 amends Sections 6508.1 and 20575, adds Sections 6508.2 and 20574.1, and repeals and adds Section 20577.5 of the Government Code.)

AB 2196 – Discontinues CalPERS Installment Payments into Retirement.

CalPERS offers 50 different types of service credits that active members may purchase or convert before their retirement date. Currently, if a member retires while still making installment payments on a service credit election, the member may choose the pay the remaining balance in full or in installment payments where the amounts will be deducted from their retirement allowance. If a member passes away with an outstanding balance, CalPERS continues to deduct monthly payments from his or her beneficiary's monthly allowance or deducts a lump sum from death benefit payments. However, if the member does not provide for a monthly survivor benefit or death benefit payment, CalPERS is not able to collect the unpaid balance.

AB 2196's purpose is to strengthen CalPERS' financial policies by discontinuing installment payments for service credits. The bill requires members to pay their full balance for service credits at the time of retirement or preretirement death for all elections with an effective date on or after January 1, 2020. The member, survivor, or beneficiary shall have his or her allowance reduced by the actuarial equivalent of any balance unpaid and remaining by the member.

CalPERS members who make elections **on or after January 20, 2020**, including elections for normal contributions, arrears contributions, absences, or public service, need to be aware that they will no longer have the option to make installment payments for their elections. They must be prepared to pay the full balance at the time of retirement or preretirement death, or otherwise elect an actuarial equivalent reduction of the balance.

(AB 2196 amends Sections 20776, 21037, 21039, 21050, and 21073.1 of the Government Code.)

AB 2310 – Revises Requirements for CalPERS Cost Sharing Agreements.

Under the Public Employees' Retirement Law ("PERL"), a CalPERS agency and its employees may agree in writing to share the costs of the employer contribution to CalPERS following the procedures in Government Code section 20516. AB 2310 modifies Section 20516 as follows:

- Adds references to a memorandum of understanding ("MOU"), in addition to existing language regarding a collective bargaining agreement ("CBA").
- Allows for a MOU or CBA to now specify a methodology for calculating the cost-sharing rate, as an alternative to the existing option to provide the exact percentage of the member's cost-share.
- Once the CalPERS agency and employee unit have agreed to cost sharing, they will not be required to create a contract amendment for cost sharing in subsequent CBA's or MOU's if they use an exact percentage of cost sharing. However, if the CBA or MOU specifies a methodology for calculating the cost-sharing rate, the CalPERS agency must provide CalPERS with a signed side letter indicating the exact percentage derived from the calculation at least 90 days before the effective date of the cost-sharing rate.

CalPERS agencies who have existing cost sharing agreements with employees through contract amendments or are interested in entering into such contract amendments should review and these new options for cost sharing agreements going forward.

(AB 2310 amends Section 20516 of the Government Code.)

AB 2696 – Clarifies Employer Penalty for Violating 960-Hour Limitation on Out-of-Class Appointments.

On January 1, 2018, AB 1487 added Government Code section 20480 to the Public Employees Retirement Law ("PERL"), which prohibited out-of-class appointments of CalPERS members for more than 960 hours per fiscal year. An "*out-of-class appointment*" is an appointment of an employee to an upgraded position or higher classification by the employer or governing board to a vacant position during recruitment for a permanent appointment in the position.

AB 2696 clarifies the penalty for violating the 960-hour limitation on out-of-class appointments. Specifically, AB 2696 provides the penalty is three times the employee and employer contributions that would have otherwise been paid to CalPERS for the difference between the compensation paid for the out-of-class appointment and the compensation that would have been paid and reported to CalPERS, ***but for the vacancy***, in accordance with a publicly available pay schedule for the entire period of the out-of-class appointment.

Districts who contract with CalPERS should ensure that employees working in out-of-class appointments do not work than 960 hours per fiscal year to avoid a violation of Section 20480. CalPERS agencies should also ensure that they report out-of-class appointments to CalPERS no later than July 30th each year to further avoid any penalties.

(AB 2696 amends Section 20480 of the Government Code.)

SB 1022 – Revises Timeline and Requirements for Agencies to Terminate CalPERS Contracts.

SB 1022 shortens the timeline for an agency to terminate its CalPERS contract and ensures that employees and retirees receive adequate notice of the agency's intent to terminate the contract. Instead of requiring an agency to wait at least one year to terminate the contract, this bill requires the agency to adopt the ordinance or resolution terminating the contract not less than 90 days and not more than one year after the CalPERS receives the resolution giving notice of the intent to terminate.

SB 1022 also requires agencies who are terminating their contracts to notify past and present employees of the intent to terminate the contract within 30 days of the adoption of the resolution. This bill requires CalPERS to provide member and retiree contact information to the agency for the purpose of providing this notice.

This bill also clarifies the confidentiality provisions governing data filed with CalPERS. This bill specifies CalPERS may provide the data to an agency for purposes of notifying members, former members, or retired members of the agency's intent to terminate the contract. This bill also clarifies that the confidentiality provisions apply to the Public Employees Medical and Hospital Care Act ("PEMHCA").

Any CalPERS agency that is considering terminating its contract with CalPERS should be aware of the specific procedural requirements for adopting resolutions, timelines for giving notice to employees and retirees, and the timeline for the termination of the contract.

(SB 1022 amends Sections 20230, 20570, and 20571 of the Government Code.)

SB 1195 – Authorizes PORAC to Base Health Benefit Premiums on Regional Rates.

The Public Employees' Medical and Hospital Care Act ("PEMHCA") governs postemployment health care benefits for eligible retired public employees and their beneficiaries. The Peace Officers Research Association of California Insurance and Benefits Trust ("PORAC") offers designed health benefits plans exclusively to its membership through PEMHCA. Under existing law, PORAC can only offer a plan structure that utilizes a statewide rate when determining what cost PORAC can charge to the member.

SB 1195 authorizes PORAC to incorporate regional rates in their plan design and offer lower premiums to their members who are in lower cost regions. The bill prohibits the trustees of these health benefit plan trusts from using geographic regions that are different from the geographic regions established by CalPERS in determining the regional premiums, except as specified by SB 1195.

Agencies that offer heath care benefits through PORAC should be aware that their premium rates may change due to the increase in flexibility for PORAC to use regional premium rates rather than statewide premium rates.

(SB 1195 amends Section 22850 of the Government Code.)

SB 1413 – Creates the California Employers' Pension Prefunding Trust Program.

The Public Employees' Retirement Law ("PERL") authorizes CalPERS to provide defined retirement benefits to employee of member public agencies or districts. These benefits are funded by employer and employee contributions and investment returns overseen by CalPERS. Under the PERL, there is no provision allowing public agencies participating in a defined benefit pension plan to prefund their payments toward their future annual required pension contributions.

SB 1413 creates the California Employers' Pension Prefunding Trust Program (CEPPT). The CEPPT is a special irrevocable trust fund intended to meet the requirements of Section 115 of the Internal Revenue Code, which provides that income earned by a trust that is derived from the exercise of an essential governmental functions is excludable from gross income. This bill allows state and local public agencies, including school and community college districts, that provide a defined benefit pension plan to their employees to prefund their pension contributions. A defined benefit plan is prefunded when it is a trust fund for the purpose of investing employer payments toward future required pension contributions.

SB 1413 authorizes employers to elect to participate in the CEPPT and enter into contracts with CalPERS for prefunded CEPPT Funds. It gives the CalPERS Board of Administration (Board) the authority to administer and invest the CEPPT Fund under the requirements of Section 115 of the Internal Revenue. The Board is required to offer participating employers specified cost-effective, diversified investment portfolios. SB 1413 requires each participating agency to pay a reasonable amount, determined by the Board, for the administrative and asset management costs for the CEPPT Fund. These costs will be credited to the CEPPT Fund. Any income earned through the CEPPT Fund will be credited back to the Fund.

The bill also sets the terms under which a CEPPT Fund contract can be terminated or transferred. In addition, SB 1413 authorizes the Board to adopt regulations, including emergency regulations, to implement the CEPPT.

(SB 1413 adds Sections 21710, 21711, 21712, 21713, 21714, 21715, and 21716 to the Government Code.)

WORKERS' COMPENSATION/ WORKPLACE SAFETY

AB 1749 – Allows Employers to Voluntarily Accept Liability for Workers' Comp Injuries Off-Duty Police Officers Sustain Out-of-State.

Existing law provides that a peace officer is entitled to workers' compensation benefits whenever he or she is injured, dies, or is disabled performing his or her duties as a peace officer when not acting under the immediate direction of his or her employer. Existing law states that peace officers are entitled to such benefits if they have engaged in the apprehension or attempted apprehension of individuals violating the law, the protection or perseveration of life or property, or preservation of the peace anywhere in California.

AB 1749 provides that peace officers who are injured while performing these duties are entitled to workers' compensation benefits regardless of whether the injury occurs in or out of California, and specifically references the October 1, 2017 mass shooting at a Las Vegas, Nevada concert event where several off-duty California peace officers attending the concert were injured while assisting in response to the incident. Since existing law does not expressly authorize workers' compensation benefits to peace officers who sustain injuries out of state, AB 1749 states that an employer, ***at its discretion or in accordance with policy***, is not precluded from accepting liability for workers' compensation for peace officer injuries sustained outside of state. If the employer determines that providing workers' compensation serves the public purposes of the employer, it may accept workers' compensation liability for the injury.

This new law **does not** create a mandate for employers to provide workers compensation benefits for injuries sustained while off-duty and out of state, but instead provides a mechanism to voluntary provide for such benefits at the discretion of the agency.

(AB 1749 amends Section 3600.2 of the Labor Code.)

AB 2334 – Amends Cal/OSHA's Six-Month Period for Issuing Citations for Ongoing Workplace Violations.

Currently, the California Division of Occupational Safety and Health (Cal/OSHA) has six months from the date the violation occurred to issue a citation to an employer for violations related to the life, safety, and health of employees.

AB 2334 modifies the application of this six-month period for Cal/OHSA to issue a citation and defines when an occurrence of a violation is ongoing for purposes of issuing a citation. While the law remains unchanged in that Cal/OHSA still shall not issue a citation more than six months after the "*occurrence*" of a violation, under AB 2334, an "*occurrence*" continues until either it is corrected, until Cal/OSHA discovers the violation, or until the duty to comply with the violated requirement ceases to exist.

Districts should be aware that if there are any life, safety, or health violations in the workplace, these violations will now be ongoing until the agency corrects them, Cal/OSHA discovers them, or the requirement related to the violation ceases to exist. As a result, Cal/OSHA could now potentially have a prolonged period of time to discover the violations and issue a citation. Agencies should use ensure they are correcting any potential life, safety, or health violations in a timely manner so as not to maintain continuous occurrences of violations.

(AB 2334 amends Sections 138.7, 3702.2, and 6317 of the Labor Code and adds Sections 6410.1)

SB 1086 – Permanently Extends 420-Week Window for Dependents of Deceased Firefighters and Peace Officers to File for Workers' Compensation Death Benefits.

California law currently requires dependents of a deceased individual to initiate proceedings to collect workers' compensation within specific time periods – no more than one year after the date of death and generally not more than 240 weeks from the date of injury, with certain exceptions.

One exception currently provides an extension of up to 420 weeks from the date of injury, but no more than one year from the date of death, for dependents of deceased firefighters and peace officers to file for workers' compensation death benefits when the cause of death is cancer, tuberculosis, methicillin-resistant staphylococcus skin infections, or bloodborne infectious disease. This exception is set to expire on January 1, 2019. SB 1086 deletes the January 1, 2019 expiration date and now permanently extends this exception.

In managing workers' compensation death benefits claim, districts should be aware of the permanent extension of time for dependents of decreased firefighters and peace officers to file for workers' compensation death benefits for certain causes of death.

(SB 1086 amends Section 5406.7 of the Labor Code.)

GOVERNANCE

CHARTER SCHOOLS

AB 406 – Prohibits Charter Schools from Operating as For-Profit Entities.

Previously, Education Code section 47604 provided that charter schools could be operated as or by a nonprofit public benefit corporation. AB 406 repeals the current version of section 47604 effective July 1, 2019 and adds a new section 47604, which provides that, effective July 1, 2019, a charter school is specifically prohibited from operating as a for-profit corporation, for-profit educational management organization, or a for-profit charter management organization.

AB 406 defines "operate as, or be operated by" as services provided by for a for-profit corporation to a charter school that include any of the following:

- Nominating, appointing, or removing board members or officers of the charter school;
- Employing, supervising, or dismissing employees of the charter school, including certificated and non-certificated school personnel;

- Managing the charter school's day-to-day operations as its administrative manager;
- Approving, denying, or managing the budget or any expenditures of the charter school that are not authorized by the governing body of the charter school; or
- Providing services to a charter school before the governing body of the charter school has approved the contract for those services at a publicly noticed meeting.

AB 406 further provides that a charter school may not enter into a subcontract to avoid these requirements.

AB 406 retains other provisions, which were previously contained in section 47604, or slightly amends them. Subdivision (a), which allows charter school to operate as, or be operated by, a nonprofit public benefit corporation remains in the new version. Subdivision (c) continues to allow governing boards who have granted a charter to have a single representative on the board of directors of the nonprofit public benefit corporation, but broadens this permission to "a chartering entity" where the statute previously limited it to "the governing board of a school district." Subdivision (d) of the new section 47604 continues to provide that the chartering authority that grants a charter to be operated as a nonprofit public benefit corporation is not liable for the debts or obligations of the charter school for claims arising from the performance of acts, errors or omissions by the charter school so long as the chartering authority has complied with required oversight responsibilities.

These requirements apply to charter schools submitting an initial petition for establishment, or charter schools petitioning for renewal or requesting a material change to their charters.

(AB 406 repeals Education Code section 47604 and adds new Education Code section 47604, effective July 1, 2019.)

ELECTIONS

AB 2449 – Extends the Date by Which a Newly Elected Member of a County Board of Education and Governing Board of School Districts or Community College District Assumes Office After Election; Extends the Date By Which a Member of a Governing Board of a Community College District Must Vacate Office; Extends the Date by Which a County Board of Must Elect a President of the Board.

AB 2449 changes the date upon which newly elected members of county boards of education and governing boards of school districts assume office as follows:

- Extends, by two weeks, the date by which a newly elected member of a county board of education is to assume office after an election to the second Friday in December (from the last Friday in November).
- Extends, by one week, the date by which a newly elected member of a school district governing board is to assume office after an election to the second Friday in December (from the first Friday in December).
- Extends, by one week, the date by which a newly elected member of a community college district governing board is to vacate office to the second Friday in December (from the first Friday in December).

This bill also extends, by one week, the date by which a member of a community college district governing board is to vacate office to the second Friday in December (from the first Friday in December).

The bill extends the date by which county boards of education must hold their annual organizational meeting and elect a president of the board by two weeks. The meeting must be held on or after the second Friday in December, or the first meeting after the first day in July, depending upon whether, pursuant to Education Code section 1007, the terms of office of board members commence on the second Friday in December or the first Friday in July. The law previously required county boards of education to hold this meeting on the last Friday in November

or the first Friday in July, depending upon the commencement of the members' terms.

(AB 2449 amends Sections 1007, 1009, 5017, and 72027 of the Education Code.)

SB 1018 – Allows School Districts and Community College Districts to Establish a Redistricting Commission, or Hybrid Redistricting Commission.

This bill adds governing boards of school districts and community college districts to the entities who may establish a redistricting commission, or hybrid redistricting commission, or advisory redistricting commission composed of the residents of the local jurisdiction. The commission will be tasked with changing the district boundaries or to recommend changes to those boundaries.

A hybrid redistricting commission is defined as a body that recommends to a board placement of the district boundaries for that board. A hybrid redistricting commission is defined as a body that recommends to a board two or more maps for the placement of the district boundaries for that board, where the board must adopt one of those maps without modification, except as required by state or federal law.

A school district or community college district may prescribe the manner in which members are appointed to the commission. The following persons may not be appointed to serve on the commission: a person who is an elected official of the local jurisdiction, or a family member, staff member, or paid campaign staff of an elected official. Family member means a spouse, parent, sibling, child, or in-law. The school or community college district may impose additional requirements or restrictions on the commission, members of the commission, or applicants to the commission in excess of those prescribed by the bill.

With respect to hybrid commissions, a school district or community college district may prescribe the manner in which members are appointed to the commission if the jurisdiction uses an application process open to all eligible residents and if the commissioners are not directly appointed by the legislative body or an elected official of the district.

A person may not be appointed to the commission if the person or any family member of the person has been elected or appointed to, or been a candidate for, an elective office of the local jurisdiction in the eight years preceding that person's application to serve on the commission. The bill also sets forth additional limitations on service on the commission of the prospective member, his or her spouse or his or her family member have served on campaigns, for political parties, as lobbyists, and related restrictions.

The bill also contains limitations on the actions of commission members with respect to local elections that may create conflicts with their role on the commission. The commission may not be comprised entirely of members who are registered to vote with the same political party preference. The commission may not draw districts for the purpose of favoring or discriminating against a political party or an incumbent or political candidate.

Each member of the commission must be a designated employee in the district's conflict of interest code.

(SB 1018 amends Sections 23000, 23001, 23002 and 23004 to the Government Code.)

ACCOUNTABILITY

AB 1661 – School Accountability and Family Engagement.

This bill amends portions of the Education Code with respect to parent involvement in pupil education to require that districts also ensure family involvement and engagement. The bill states that the purposes of Education Code sections 11500 et seq. are

- To engage parents and family members positively in their children's educations by providing assistance and training on topics such as state education standards and assessments to develop knowledge. This goal is in addition to the goals in existing law of helping parents to develop skills at home to support their children's academic efforts at school and their children's development as responsible future members of our society;

- To train teachers, school administrators, specialized instructional support personnel and other staff to communicate effectively with parents as equal partners. Existing law provided only that the purpose was to train teachers to communicate effectively with parents; and
- To integrate and coordinate parent and family engagement activities with the local control and accountability plan adopted by the district. Existing law if the purpose was to comply with the school's master plan for academic accountability.

The bill also adds requirements to school districts and county offices of education to establish a written parent and family engagement program as required by the federal Every Student Succeeds Act. The plan must include new elements – in addition to previous requirements that existed under the Elementary and Secondary School Improvement Act – as follows:

- Procedures to involve parents and family members in developing the Local Educational Agency Plan and school support and improvement plans;
- Procedures to provide assistance and support necessary to build school's capacity to plan and implement effective parent and family engagement activities; and
- Procedures to train teachers, school administrators, and other staff on outreach and effective communication with parents and family members as equal partners.

In addition, under this bill, schools must provide regular and periodic programs to, among other things, provide parents and family members an explanation of curriculum, state academic achievement awards, and state and local assessments.

This bill requires that a school district may have to provide transportation services to allow a foster child to attend a school or school district if there is an agreement with a local child welfare agency that the school district will assume part or all of the transportation costs, or unless otherwise required by federal law. Further, local educational agencies must collaborate with local child welfare agencies to develop and implement clear written procedures to address the transportation needs of foster youth to maintain them in their school of origin when it is in the best interest of the foster child.

The bill also revises accountability provisions to refer to obligations under the Local Control Funding Formula (LCFF) regarding parental and family involvement, and provisions to refer to the new federal Every Student Succeeds Act.

AB 716 – Requires School Plans for Student Achievement to Be Created by Schoolsite Councils; Revises Provisions of Education Code with Respect to Categorical Programs to Comply with the Local Control Funding Formula; Sets forth Requirements for Schoolsite Councils.

Existing law provides that a school district or county board of education may request that the State Board of Education waive portions of the Education Code or regulations of the State Board as to that district or county board of education, after a public hearing. This bill repeals the ability to waive certain Education Code section 52850 et seq. with respect to school-based coordinated categorical programs. The bill also repeals the requirement that the governing board of any school district requesting a waiver of Education Code sections 39390 et seq. to provide written notice of a public hearing. This is because those provisions have been repealed previously.

The bill also repeals Education Code section 64000 with respect to funds for categorical programs. The bill replaces these provisions with provisions related to federal categorical programs and state categorical programs that are not funded thorough the local control funding formula. Each local educational agency – defined as a county office of education, school district, or charter school – that elects to apply for such funds may submit to the California Department of Education for approval by the state board a single consolidated application for approval or continuance of categorical programs. The application applies to applications for federal funds provided to the state through the federal Elementary and Secondary Education act of 1965 as amended by the Every Student Succeeds Act and to state

categorical programs that are not funded through the local control funding formula. In addition, this applies to carryover funds from state categorical programs that have a sunset under their own provisions.

The consolidated application must include annual certifications by the school district English learner parent advisory committee, if one has been established, that the application was developed with the review and advice of the committee.

As a condition of receiving funding under a categorical program a local educational agency must ensure that each school of the local educational agency that operates any such programs consolidates any plans required by those programs into a single plan, known as the School Plan for Student of Achievement (SPSA), unless otherwise prohibited by law. If a plan is not required by the program, the governing board may require a school that receives categorical funding from the consolidated application to develop an SPSA. The local educational agency is not required to submit the plan to the Department of Education. Schoolsite counsels must develop and approve the SPSA. The Department of Education will monitor to ensure that school site councils have input. A complaint that a local educational agency has not complied with these requirements will be addressed as a Uniform Complaint.

The development of the SPSA must include both of the following:

- Administration of a comprehensive needs assessment pursuant to the federal Every Student Succeeds Act that forms the basis of the schools goals in the SPSA. The comprehensive needs assessment must include an analysis of verifiable state data, consistent with all state priorities and informed by indicators described in the federal Every Student Succeeds Act, including pupil performance against state-determined long term goals; and
- Identification of the process for evaluating and monitoring the implementation of the SPSA and progress toward accomplishing the goals set forth in the SPSA.

The SPSA must include all of the following:

- Goals set to improve pupil outcomes, including addressing the needs of pupil groups as identified through the needs assessment described above;
- Evidence based strategies, actions, or services; and
- Proposed expenditures to address the findings of the needs assessment consistent with the state priorities, including identifying resource inequalities.

SPSA's created under this provision may serve as school improvement data plans required under federal laws for schools identified for targeted support or comprehensive support.

This bill also provides that it is the intent of the legislature that, to the extent possible, the members of the schoolsite council represent the composition of the school's pupil population. A school that operates a program that requires a SPSA must establish a schoolsite council. At the elementary school level, the schoolsite council shall consist of both of the following groups:

- The principal of the school or his or her designee; classroom teachers employed at he school, selected by classroom teachers employed at the school; school personnel employed a the school who are not teachers, selected by school personnel who are not teachers. Classroom teachers must make up the majority of this portion of the council; and
- Parents of pupils attending the school, or other members of the school community, selected by pupils of parents attending the school. The number of persons selected under this requirement must be equal to the number of persons selected as described above.

At a secondary school, the schoolsite council must consist of both the following groups:

- The principal of the school or his or her designee; classroom teachers employed at the school, selected by classroom teachers employed at the school; and school personnel employed at the school who are

not teachers, selected by school personnel employed at the school who are not teachers. Classroom teachers must make up the majority of this portion of the council;

- Parents of pupils attending the school, or other members of the school community, selected by parents of pupils attending the school; and pupils attending the school, selected by pupils who are attending the school. The number of persons selected under this requirement must be equal to the number of persons selected as described above.

An employee of a school who is also a parent or guardian of a pupil who attends a school other than the school of the parent's or guardian's employment is not disqualified by this employment from serving as a parent representative on the schoolsite council established for the school that his or her child or ward attends.

Schools with a common site administration may operate a shared schoolsite council if the schoolsite has a pupil population of less than 300.

(AB 716 amends Sections 35050, 64000, and 64001 of the Education Code, and adds Sections 65000 and 65001 to the Education Code.)

MANDATED REPORTERS/CHILD ABUSE

AB 2302 – Extends Statute of Limitation for Mandated Reporter's Failure to Report Sexual Assault.

The Child Abuse and Neglect Reporting Act makes certain people mandated reporters, including teachers, social workers, peace officers, and firefighters. A mandated reporter is required to make a report whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, observes or has knowledge of a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.

A mandated reporter's failure to report an incident of known or reasonably suspected child abuse or neglect is a misdemeanor, the prosecution of which is to commence within one year after the failure to report occurs. Current law also provides that if a mandated reporter intentionally conceals his or her failure to report an incident, the failure to report is a continuing offense. For a continuing offense, the one-year statute of limitation begins to run on the date an agency discovers the failure to report.

AB 2302 extends the statute of limitations for filing a case against a mandated reporter who fails to report an incident known or reasonably suspected to be sexual assault to five years from the date the offense occurred. This extends the period of liability for mandated reporters if they fail to report known or reasonably suspected sexual assault. Districts are encouraged to provide employees who are mandated reporters with training about the duties in child abuse and neglect identification and reporting.

(AB 2302 amends Section 801.6 of the Penal Code.)

AB 1619 – Extends the Statute of Limitations for any Civil Action Recovery Based on Sexual Assault.

Existing law provides that in a civil action for recovery of damages suffered as a result of domestic violence, an action must be commenced within 3 years from the date of the last act of domestic violence by the defendant against the plaintiff or within 3 years from the date the plaintiff discovers or reasonably should have discovered that an injury or illness resulted from an act of domestic violence by the defendant against the plaintiff.

This new law sets the time for commencement of any civil action for recovery of damages suffered as a result of sexual assault, where the assault occurred on or after the plaintiff's 18th birthday, to the later of within 10 years from the date of the last act, attempted act, or assault with intent to commit an act of sexual assault by the defendant against the plaintiff, or within 3 years from the date the plaintiff discovers or reasonably should have discovered that an injury or illness resulted from an act, attempted act, or assault with intent to commit an act, of sexual assault by the defendant against the plaintiff.

(AB 1619 adds Section 340.16 to the Code of Civil Procedure).

PRIVACY

AB 2813 – Establishes the California Cybersecurity Integration Center.

This bill requires the Office of Emergency Services to establish and lead the California Cybersecurity Integration Center. The primary mission of the Center will be to reduce the likelihood and severity of cyber incidents that could damage California's economy, its critical infrastructure, or public and private sector computer networks in the state. The Center will serve as the central organizing hub of state government's cybersecurity activities, and will coordinate information sharing with local, state, and federal agencies, tribal governments, utilities and other service providers, academic institutions, and nongovernmental organizations. The Center will be comprised of representatives of several agencies and organizations, including the California Community Colleges, the California State University, and the University of California.

The Center shall operate in close coordination with the California State Threat Assessment System and the United States Department of Homeland Security – National Cybersecurity and Communications Integration Center. These groups share cyber threat information received from utilities, academic institutions, private companies, and other appropriate sources. The Center will:

- Provide warnings of cyber attacks to government agencies and nongovernmental partners;
- Coordinate information sharing among entities;
- Assess risks to critical infrastructure and information technology networks;
- Prioritize cyber threats and support public and private sector partners in protecting their vulnerable infrastructure and information technology networks;
- Enable cross-sector coordination and sharing of recommended best practices and security measures; and
- Support cybersecurity assessments, audits, and accountability programs required by state law to protect the information technology networks of California's agencies and departments.

The Center must establish a statewide cybersecurity strategy to improve how cyber threats are identified, understood, and shared in order to reduce threats to California government, businesses, and consumers. The Center must also establish a Cyber Incident Response team to serve as California's primary unit to lead cyber threat detection, reporting, and response in coordination with public and private entities across the state. This team must also assist law enforcement agencies with primary jurisdiction for cyber-related criminal investigations. The team shall be comprised of personnel from agencies, departments and organizations represented in the Center and, thus, may include representatives from California Community Colleges, the California State University, and the University of California.

(AB 2813 adds Section 8586.5 to the Government Code.)

PUBLIC SAFETY/PUBLIC RECORDS ACT

AB 748 – Establishes Standards for Disclosure of Video and Audio Recordings of Critical Incidents.

The California Public Records Act (CPRA) requires public agencies, including school and community college districts, to make public records promptly available for inspection and copying to a requesting party, unless the public records are exempt from disclosure under the CPRA. The CPRA currently exempts from disclosure records of investigations conducted by any state or local police agency.

Beginning July 1, 2019, AB 748 mandates the disclosure of video and audio recordings of "*critical incidents*" involving police agencies, except in delineated circumstances when the disclosure of the recording

may be delayed or when recordings may be redacted or withheld. Under AB 748, an audio or video recording relates to a "*critical incident*" if it depicts an incident involving a peace officer or custodial officer's discharge of a firearm at a person or an incident in which the use of force by a peace officer or custodial officer against a person resulted in death or great bodily injury.

AB 748 further provides that "*an agency may provide greater public access to video or audio authority than the minimum standards set forth in this paragraph.*" This means that, as under current law, an agency has the discretion to release more recordings, and to do so sooner than required by law.

AB 748 provides that, during an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for up to 45 calendar days after the date the agency knew or should have known about the incident, if disclosure would substantially interfere with the investigation such as by endangering a witness or confidential source. If an agency delays disclosure for this reason, the agency is required to provide to the requester, in writing, the specific basis for the determination that disclosure would substantially interfere with the investigation and an estimated date for disclosure.

The agency may continue to delay disclosure of a recording of a critical incident beyond this 45-day period up to one year if it is able to demonstrate by clear and convincing evidence that disclosure would substantially interfere with the investigation. The agency is required to reassess withholding and notify the requester every 30 days. The recording must be released promptly when the specific basis for withholding is resolved.

AB 748 permits an agency to withhold a recording related to a critical incident, without limitation as to time, if it determines the public interest in withholding the recording clearly outweighs the public interest in disclosure because the release of the recording would violate the reasonable expectation of a subject depicted in the recording. The agency is required to provide in writing to the requester the specific basis for the expectation of privacy and the public interest served by withholding the recording.

The agency is only permitted to withhold the recording if it demonstrates that the reasonable expectation of privacy of the subject cannot adequately be protected through redaction and that interest outweighs the public interest in disclosure. The statute specifically authorizes redaction technology, including blurring or distorting images or audio to obscure those specific portions of the recording that protect the interest. However, redaction shall not interfere with the viewer' s ability to fully, completely, and accurately comprehend the events captured in the recording.

Even if redacting is inadequate to protect the reasonable expectation of privacy of a subject, the agency must produce an unredacted version of the recording, upon request, to the subject of the recording, his or her parent, guardian, or representative, or his or her heir, beneficiary, immediate family member, or authorized legal representative, if the subject is deceased.

While AB 748 technically goes into effect January 1, 2019, **the bill specifically delays the obligation to product the affected audio and video recordings until July 1, 2019**. Although these new requirements will pose significant burdens and costs on agencies, they may also provide an opportunity to build public trust through increased transparency. Agencies should, therefore, conduct administrative investigations and draft disciplinary documents for the types of complaints affected by AB 748 with the expectation that these records will be subject to public inspection. Agencies should consult with LCW or other trusted legal counsel regarding not only how to bring their policies into line with the new laws, but to assist in preparing investigation reports and disciplinary notices that will meet legal requirements and survive public scrutiny.

(AB 748 amends Section 6254 of the Government Code.)

SB 1421- Increases Public Access to Peace Officer Personnel Records.

Penal Code sections 832.7 and 832.8 currently make personnel records of peace officers or custodial officers confidential, and also prevent such records from being disclosed in any criminal, civil or administrative proceeding except pursuant what is commonly called a "*Pitchess* motion." For decades, this meant that records maintained in an officer's general personnel file, or any other file used for a personnel purpose, including records of disciplinary investigations, could not be publically released, including in response to public records requests under the California Public Records Act ("CPRA").

SB 1421 amends Penal Code Section 832.7 to generally require disclosure of records and information relating to the following types of incidents in response to a request under the CPRA (i.e., without a *Pitchess* motion):

- Records relating to the report, investigation, or findings of an incident involving the discharge of a firearm at a person by a peace officer or custodial officer.
- Records relating to the report, investigation or findings of an incident in which the use of force by a peace officer or custodial officer against a person results in death or great bodily injury.
- Records relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public. "*Sexual assault*" is defined for the purposes of section 832.7 as the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or any other official favor, or under the color of authority. The propositioning for or commission of any sexual act while on duty is considered a sexual assault.
- Records relating to an incident in which a sustained finding of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction of evidence or falsifying or concealing of evidence.

SB 1421 specifies that the types of records of covered incidents that must be released pursuant to a CPRA request include:

- All investigative reports.
- Photographic, audio, and video evidence; transcripts or recording of interviews.
- Autopsy reports.
- All material compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of disciplinary or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth finding or recommended filings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

SB 1421 restricts redaction of records before disclosing, except for the following reasons:

- To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.
- To preserve the anonymity of complainants and witnesses.
- To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an

unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial records.

- Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.
- Other circumstances not listed above, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information. This language mirrors the catch-all provision of the CPRA, and courts will likely interpret the law similarly.

SB 1421 also sets out several circumstances in which agencies may delay the mandated disclosure of records, including delays for the disclosure of records related to active criminal investigations, criminal charges filed related to a force incident, and active administrative investigations of serious force incidents or shooting.

SB 1421 does not require agencies to disclose records or information related to civilian complaints that are found to be frivolous or unfounded. The statute is silent as to whether this exception applies to administrative investigations initiated for reasons other than a civilian complaint.

SB 1421 will require major changes in how law enforcement agencies respond to requests for peace officer personnel records. SB 1421 does not specifically address the applicability of the standard CPRA exemptions, other than the law enforcement investigation exemption under Government Code section 6254(a)(1)(f) to these documents, but the mandatory language "*shall not be confidential*" and "*shall be made available for public inspection*" indicate the Legislature's intent to make these documents available under the CPRA.

(SB 1421 amends Sections 832.7 and 832.8 of the Penal Code.)

For more information on AB 748 and SB 1421, please see LCW's Special Bulletin here:

SB 978 – Requires Law Enforcement Agencies to Publish Standards, Polices, and Practices Online.

Beginning January 1, 2020, this bill requires local law enforcement agencies and Commission of Peace Officer Standards and Training ("POST") to post on their Internet websites all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available to the public through a California Public Records Act ("CPRA") request.

The Legislature declared that making this information available online and easily accessible to the public helps educate the public about law enforcement policies, practices, and procedures and is intended to increase communication and community trust, while saving on costs and labor associated with responding to individual CPRA requests for this information.

For any law enforcement agency that does not already post their training, policies, practices, and operating procedures on its website, it should begin taking the necessary steps to make this information publicly available online by the January 1, 2020 effective date of this new law.

(SB 978 adds Section 13650 to the Penal Code.)

PUBLIC SAFETY

AB 1985 – Provides Requirements for Law Enforcement Hate Crime Policies.

AB 1985 adds Penal Code section 422.87 to require local law enforcement agencies that have a policy regarding hate crimes to include certain information in the policy. While AB 1985 does not require law enforcement agencies to adopt or update an existing hate crime policy, it sets forth requirements to follow for agencies that choose to adopt or update a hate crime policy going forward, including the following:

- Legal definitions of hate crimes, as defined in the Penal Code.
- Content of the model policy framework developed by the Commission on Peace Officer Standards and Trainings ("POST").
- Information regarding "*bias motivation*" – defined as a preexisting negative attitude toward actual or perceived disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics.
- Information to identify if a perpetrator targets a person with a disability – defined to include mental and physical disabilities that are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.
- Information on general underreporting of hate crimes and extreme underreporting of anti-disability and anti-gender hate crimes and a plan for the agency to remedy such underreporting.
- A protocol for reporting suspected hate crimes to the Department of Justice.
- A checklist of first responder responsibilities.
- A specific procedure for distributing the hate crime policy to officer and to access the policy as needed.
- A process to ensure that required hate crimes brochures are distributed to victims of hate crimes and all other interested parties.
- Require all officers be familiar with and carry out the policy at all times unless otherwise directed by an authorized command-level officer.

AB 1985 also authorizes law enforcement agencies to use model hate crime policies developed by the International Association of Chiefs of Police, to the extent consistent with this law. Law enforcement agencies that have adopted or are updating a policy regarding hate crimes should review such policy to ensure compliance with AB 1985.

(AB 1985 amends Section 422.56 of and adds Section 422.87 to the Penal Code.)

AB 2327 – Requires Law Enforcement Agencies to Maintain Peace Officer Misconduct Investigations in Personnel Files.

Existing law requires law enforcement agencies to retain reports or findings related to complaints by the public against peace officers for at least five years. While existing law allows these reports or findings to be maintained in a peace officer's general personnel file or separate file designated by the agency, the law does not currently require a law enforcement agency to maintain reports or findings in such files.

AB 2327 will now require law enforcement agencies to make and retain a record of any investigations involving peace officer misconduct in the peace officer's general personnel file or a separate file designated by the agency. In addition, AB 2327 requires a peace officer seeking employment with any law enforcement agency in California to give written permission to that hiring agency to view his or her general personnel file or the separate file.

This bill will assist law enforcement agencies hiring lateral peace officers with thoroughly checking an applicant's employment background through a review of personnel files from a prior law enforcement agency. Law enforcement agencies must ensure they retain records of any investigations of peace officer misconduct in the peace officer's general personnel file or otherwise designate a separate file to house such records. Law enforcement agencies must also require peace officer applicants to provide written permission for the agency to review their personnel files maintained by other agencies.

(AB 2327 adds Section 832.12 to the Penal Code.)

AB 2504 – Creates a POST Training Course on Sexual Orientation and Gender Identity.

AB 2504 requires the Commission on Peace Officers and Standards Training ("POST") to develop and implement a course regarding sexual orientation and gender identity as part of its basic training for peace officers and dispatchers. The course must cover certain topics, which include but are not limited to:

- The difference between sexual orientation and gender identity.
- Terminology used to identify and describe sexual orientation and gender identity.
- How to create an inclusive workplace within law enforcement for sexual orientation and gender identity minorities.
- Important moments in history related to sexual orientation and gender identity minorities and law enforcement.
- How law enforcement can respond effectively to domestic violence and hate crimes involving sexual orientation and gender identity.

The bill provides that peace officers, administrators, executives, and dispatchers may participate in supplementary training on these topics, outside of basic training, for continuing professional training required by POST.

(AB 2504 adds Section 13519.41 to the Penal Code.)

AB 2992 – Creates POST Training Course on Commercial Exploitation of Children and Victims of Human Trafficking.

AB 2992 requires the Commission of Peace Officer Standards and Training ("POST") to develop a course on commercial sexual exploitation of children and victims of human trafficking. The course must cover topics and activities including the dynamics of commercial sexual exploitation of children, the impact of trauma on child development, manifestations of trauma in victims, and strategies to identify potential victims. The course must also provide information about mandatory reporting requirements, appropriate interviewing, engagement, and intervention techniques to avoid re-traumatizing the victim, and specialized child victim interview resources. The POST course will be a continuing professional training course and must include facilitated discussions and learning activities, including scenario training exercises.

(AB 2992 adds Section 13516.5 to the Penal Code.)

SB 1331 – POST Domestic Violence Training Must Include Instruction on Lethality Assessments.

The Commission of Peace Officer Standards and Training ("POST") currently implements a legally required training course to teach law enforcement officers how to handle domestic violence complaints and to develop guidelines for peace officers who respond to domestic violence situations. SB 1331 creates a requirement for this course to include instruction on the assessment of lethality or signs of lethal violence in domestic violence situations.

According to the bill's author, the goal of adding lethality assessments is to prevent domestic violence homicides, serious injury, and re-assault by encouraging more victims to utilize the support and shelter services of domestic violence programs. As part of the lethality assessment, peace officers will ask victims a series of questions based on research factors linked to lethality. If a victim's responses trigger the "protocol referral," they are immediately connected with a local advocacy program.

(SB 1331 amends Section 13519 of the Penal Code.)

PUBLIC RECORDS ACT

SB 1244 – Clarifies the Requester of Public Records is the Prevailing Plaintiff Who May Recover Attorney's Fees.

The California Public Records Act ("CPRA") requires public agencies to make public records available for inspection and for copying to a requesting party, unless the public records are exempt from disclosure under the CPRA. When a public agency withholds a record from a member of the public and it appears the record is improperly withheld, a Superior Court shall order an officer of the public agency to disclose the record or show cause why he or she should not do so. The existing CPRA requires the court to award court costs and reasonable attorney's fees to the plaintiff if the plaintiff prevails in obtaining the withheld records through litigation. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney's fees to the public agency.

SB 1244 replaces the word "*plaintiff*" with the word "*requester*" in Government Code section 6259. This change is intended to clarify that only the requester of documents can recover attorney's fees and court costs as a prevailing plaintiff. This bill is a response to a school district's attempt to seek attorney's fees from a member of the public who made a request for records under the CPRA. The school district inadvertently disclosed records that were exempt under the CPRA and sought an injunction requiring the person to return or destroy the inadvertently produced records. A court granted the injunctive relief and the school district attempted to recover attorney's fees and court costs from the requesting member of the public. The court refused to grant attorney's fees to the school district and explained that "*plaintiff*" means a person seeking an order directing a public agency to disclose public records.

Districts should be aware that they will only be entitled to attorney's fees and court costs in litigation challenging the disclosure of public records under the CPRA if the requester's case is clearly frivolous.

(SB 1244 amends Section 6259 of the Government Code.)

BILLS APPLICABLE TO BOTH K-12 AND COLLEGE STUDENTS

STUDENT GOVERNMENT

AB 1887 – Allows Pupil of Public Secondary School under Age 18 to Serve on Certain Boards and Commissions.

This bill provides that students of any California public secondary school under the age of 18 may serve on any board or commission established pursuant to Education Code section 33000 et seq. This represents an exception to Government Code 1020, which prohibits a person from holding a civil office if he or she is under the age of 18.

The bill also provides that any student of the California Community Colleges, the California State University, or an independent institution of higher education who qualifies for exemption from paying nonresident tuition as an immigrant student may serve on any board or commission established pursuant to Article 3, of Chapter 2.5, of Division 5 of the Education Code.

(AB 1887 amends section 66016.3 of the Education Code.)

IMMIGRATION/MIGRANT POPULATIONS

AB 2098 – Requires Immigration Integration for Adult Learning.

This bill adds requirements with respect to immigrant education for adult education consortia of community colleges and school districts. It amends Education Code section 84917 to require the Statewide Director of Immigrant Education to report to the Legislature regarding the use of state funds for adult education and the outcomes for adult education in each adult education region. Previously only the Chancellor of the Community Colleges and the State Superintendent of Public Education were required to do so. In addition, the bill adds to the required areas of reporting, any recommendations related to the delivery of immigrant education.

AB 2098 also places requirements on the Chancellor of the Community Colleges and the Superintendent of Public Instruction, with input from the Statewide Director of Immigrant Integration and adult education program providers, with respect to meeting the needs of immigrant and refugee adults seeking integration. They are required to identify common measures consistent with, but not limited to, the English literacy and civics (EL Civics) education program's Civic Objectives and Additional Assessment Plans under Title II of the federal Workforce Innovation and Opportunity Act for meeting the needs of immigrant and refugee adults seeking integration. At a minimum, they must accomplish both of the following:

- Define the specific data each adult education consortium may collect; and

- Establish a menu of common assessments and policies regarding placement of adults seeking immigrant education into adult education programs to be used by each adult education consortium measure educational needs of adults and the effectiveness of providers in addressing those needs.

The bill also extends a deadline in Education Code section 84920 for the Chancellor of the Community Colleges and the State Superintendent of Public Education to identify measures for assessing adult education consortia to July 1, 2019. It also provides that the Chancellor and Superintendent must utilize input from the Statewide Director of Immigrant Integration and adult education program providers, as applicable, in identifying these measures.

(AB 2092 amends Sections 84917 and 84920 of the Education Code.)

COUNSELING/SUICIDE PREVENTION

SB 972 – Requires All Schools Serving Students in Grades 7-12 and Postsecondary Institutions to Provide the Phone Number for the National Suicide Prevention Lifeline on Pupil Identification Cards.

This law requires, commencing on July 1, 2019, that public schools, charter schools, private schools that serve students in any of grades 7 to 12, inclusive, and public and private institutions of higher learning and that issue pupil identification cards to have printed on either side of the pupil identification cards the telephone for the National Suicide Prevention Lifeline, 1-800-273-8255. The law further providers that these schools at their option may also have printed on either side of the pupil identification cards, the Crisis Text Line and a local suicide prevention hotline telephone number, and institutions of higher learning may also include the campus police or security telephone number. This law permits schools that have a supply of identification cards that do not comply with these requirements, to continue to use their supply of noncompliant pupil identification cards until the supply is depleted.

(SB 972 amends the heading of Article 2.5 (commencing with Section 215) of Chapter 2 of Part 1 of Division 1 of Title 1 of, and adds Section 215.5 to, the Education Code, relating to pupil and student health.)

BILLS UNIQUE TO K-12 PUPILS

DISCRIMINATION/CULTURAL SENSITIVITY

AB 1248 – Allows K-12 Students to Wear Tribal Garb to Graduation Ceremonies.

Under AB 1248, a student may wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies. The bill defines "adornment" as something attached to, or worn with, but not replacing the cap and gown customarily worn at school graduation ceremonies, thus allowing districts to require students to wear the traditional cap and gown. The bill defines "cultural" as recognized practices and traditions of a certain group of people.

Schools may prohibit an item a student wishes to wear under this provision if the item is likely to cause a substantial disruption of, or material interference with, the graduation ceremony.

This provision applies to a school district, county office of education, or charter school.

(AB 1248 adds Section 35183.1 to the Education Code.)

AB 2289 – Provides for Nondiscrimination against and Leaves of Absence for Pregnant and Parenting Pupils.

This bill prohibits a local education agency from applying any rule concerning a pupil's actual or potential parental, family, or marital status that treats pupils differently based on sex. Local educational agencies must treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom in the same manner and under the same policies as any other temporarily disability condition.

The bill prohibits a local educational agency from excluding any pupil from any educational program or activity, including a class or extracurricular activity, or deny the student the right to that program or activity, based on the pupil's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom. However, the bill provides that a local educational agency may require a pupil to obtain the certification of a physician or nurse practitioner that the pupil is physically and emotionally able to continue participation in the regular education program or activity.

Local educational agencies cannot require pregnant or parenting minor pupils to participate in pregnant minor programs or alternative education programs. Local educational agencies must provide pregnant or parenting pupils who do voluntarily participate in alternative education programs educational programs, activities, and courses equal to those they would have been in if participating in the regular education program.

This bill requires local educational agencies to provide pregnant and parenting pupils with up to eight weeks of parental leave. This leave may be taken as follows:

- Before the birth of the pupils' infant if there is a medical necessity; and
- After childbirth during the school year in which the birth takes place (including any mandatory summer instruction) in order to protect the health of the pupil and to allow the pupil to care for and bond with the infant.

The pupil need not take any or part of the leave if the pupil does not wish to do so.

If deemed medically necessary by the pupil's physician, the pupil is entitled to receive more than eight weeks of leave. The local educational agency must deem the pupil's absences during this leave excused absences. Further, the local educational agency must not require the pregnant or parenting pupil to complete academic work or other school requirements during the leave.

A pupil must not incur any academic penalty for taking advantage of the rights and accommodations provided for by this bill. Upon return to school after taking the parental leave provided for in this bill, a pregnant or parenting pupil is entitled to opportunities to make up work including makeup work plans and reenrollment in classes. A pregnant or parenting pupil may remain enrolled for a fifth year of instruction in the school in which the pupil was enrolled before taking parental leave when necessary for the pupil to be able to complete state and local (if applicable) graduation requirements, unless the local educational agency makes a finding that the pupil is reasonably able to complete graduation requirements by the end of the pupil's fourth year of high school. A pregnant or parenting pupil who does not wish to return to the school in which the pupil was previously enrolled, is entitled to alternative education options offered by the local educational agency.

If the pregnant or parenting pupil is 18 years of age or older, the pupil may notify the school the pupil's intent to exercise this right. If the student is under 18 years of age, the person holding the right to make educational decisions for the pupil must notify the school of the pupil's intent to exercise this right. However, failure to provide the notification does not abridge any of the rights provided for.

This bill also requires local educational agencies to notify pregnant and parenting pupils of their rights and options available under the law through annual school year welcome packets and through independent study packets. Local educational agencies must notify parents and guardians of all pupils of these rights and options at the beginning of the regular school term. The bill amends Education Code section 48980 by requiring that school districts notify parents of the rights set forth in this bill, which adds Education Code section 46015, in its annual parental notifications.

Complaints that a local educational agency did not comply with these requirements may be filed as a Uniform Complaint, and a local educational agency must follow uniform complaint procedures. If the local educational agency finds merit in a complaint, it must provide a remedy to the affected pupil. If a complainant is not satisfied with the local educational

agency's response, the complainant may appeal to the California Department of Education. The Department of Education must issue a written decision on the appeal within 60 days of receipt of the appeal. The Department of Education must provide a remedy to the affected pupil if it finds merit in an appeal.

A local educational agency is defined as a school district, a county office of education, schools operated by either a school district or county office of education, a charter school, the California Schools for the Deaf and the California School for the Blind for purposes of this bill. A pregnant or parenting pupil is defined as a pupil who gives or expects to give birth or a parenting pupil who has not given birth and who identifies as the parent of the infant.

This bill also amends Education Code section 48205 to provide that a pupil who is absent from school in order to care for a sick child, that absence must be excused. In addition, the local educational agency may not require a note from a doctor with respect to that absence.

This bill also revises the definition of "immediate family" for purposes of excused absences for pupils in local educational agencies. Immediate family means the parent or guardian, brother or sister, grandparent, or any other relative living in the household of the pupil.

NOTE:

AB 2289 and SB 861 both sought to amend Education Code Section 48205 with regard to excused pupil absences. The amendment to Section 48205 set forth in the preceding two paragraphs takes effect only if (1) both bills were enacted and became effective on or before January 1, 2019; (2) each bill amends Section 48205 of the Education Code; and (3) AB 2289 was enacted after SB 816. All of these conditions have been met.

AB 2644 – Designates Delores Huerta Day.

This bill designates April 10 of each year as Dolores Huerta Day, a day having special significance pursuant to Education Code section 37222. On this day, the Legislature encourages all public schools and educational institutions to conduct exercises remembering the life of Dolores Huerta, recognizing her accomplishments, and familiarizing pupils with the contributions she made to California.

(AB 2644 adds Section 37222.20 to the Education Code and Section 6729 to the Government Code.)

AB 2319 – Deletes Reference to the Term "Foreign Language" and replaces it with "World Language."

Current law refers to the study of a language other than English by students as the study of a foreign language. Current law refers to the term "foreign language" in various provisions of the Education Code. This bill deletes references in the Education Code to the term "foreign language" and replaces those references with the term "world language." This new law does not require local education agencies to make modifications to foreign language programs.

(Amends Sections 30, 19325.1, 33126, 33195.4, 33533, 44256, 44257, 44610, 44611, 44615, 44616, 44856, 48223, 51212, 51220, 51225.3, 51243, 51244, 51245, 51460, 51461, 51865, 52167, 60119, 60603, 60605.3, and 66081 of, and to add Section 91 to, the Education Code, relating to foreign language education.)

IMMIGRATION/MIGRANT POPULATIONS/ENGLISH LEARNERS

AB 2121 – Provides Exemption from Certain Coursework and Requirement to Graduate High School in Four Years to a Pupil Identified as a Migratory Child.

Education Code section 51225.5 provided exemptions from certain high school requirements to pupils in foster care, homeless children or youths, juvenile court school pupils, and pupils in military families. This includes the exemption from high school coursework that is in addition to the statewide coursework requirements, with certain exceptions, and the ability to remain in high school for a fifth year to complete graduation requirements. This bill extends all

exemptions in section 51225.5 to any pupil who is a migratory child or a pupil participating in a newcomer program and who is in his or her third or fourth year of high school.

This bill also extends all exemptions described above and the respective obligations to charter schools. Previously the exemptions described, which apply to all categories of pupils listed above, applied only to school districts. The bill defines school districts and charter schools collectively as "local education agencies" and applies all requirements to local education agencies.

This bill adds requirements to a school district and charter school's obligation to take the following action with respect to a pupil who may be eligible to remain in high school for a fifth year:

- Within 30 calendar days of the date that a pupil who is a migratory child who may qualify for the exemption from local graduation requirements transfers into a school, the school district or charter school must notify the pupil and the pupil's parent or guardian of the availability of the graduation exemption. If the school district or charter school fails to provide timely notification of the exemption, the pupil will be eligible for the exemption once notified, even if the notification occurs after the pupil no longer meets the definition of "migratory child" or if the child otherwise qualifies for the exemption.
- Within 30 calendar days of the date that a pupil participating in a newcomer program who may qualify for the exemption from local graduation requirements commences participation in a newcomer program at a school, the school district or charter school must notify the pupil and the pupil's parent or guardian of the availability of the graduation exemption. If the school district or charter school fails to provide timely notification of the exemption, the pupil will be eligible for the exemption once notified, even if the notification occurs after the pupil no longer meets the definition of "pupil participating in a newcomer program" or if the child otherwise qualifies for the exemption.

The bill also modifies an exemption, which originally prohibited a local education agency from requiring pupils in foster care, homeless children or youths, juvenile court school pupils, and pupils in military families to retake a course if the pupil had satisfactorily completed the course in any public school, juvenile court school, or nonsectarian school or agency. This bill modifies the exemption to, as noted, apply to pupils defined as a migratory child or a pupil participating in a newcomer program, and also extends the requirement to prohibit a local education agency from requiring a pupil in one of the enumerated categories to retake a course the pupil had satisfactorily completed in a charter school or a country other than the United States.

(AB 2121 amends Sections 51225.1 and 51225.2 of the Education Code.)

AB 2239 – Encourages School Districts and Charter Schools to Support Schools in Submitting World Language Courses Specifically Designed for Native Speakers to Certification for the A-G Course List.

This bill applies to schools who offer world language courses specifically designed for native speakers that are not approved as "A-G" courses for University of California Admission. The bill requires Department of Education to encourage the governing board of a school district or charter school to support such schools in submitting the world language courses to the University of California for certification and addition to the "A-G" course list.

(AB 2239 adds Section 51225.37 to the Education Code.)

AB 2514 – Establishes the Pathways to Success Grant Program for Language Programs.

This bill establishes the Pathways to Success Grant Program with the goal of providing pupils in preschool, transitional kindergarten, kindergarten, and grades one to 12 with dual language immersion programs, developmental bilingual programs for English learners, or early learning dual language learners programs. These programs must be consistent with the adopted state policy of the English Learner Roadmap.

The Department of Education will administer the Pathways to Success Grant Program, which will be a three-year grant program. Beginning September 1, 2019, the Department of Education shall award a minimum of 10 one-time rants of up to $300,000.00 per grant. The following entities are eligible to receive the grant:

- A school district;
- A consortium composed of a school district in partnership with one or more of the following:
    - Other school districts.
    - County offices of education.
    - Bilingual teacher programs in schools of education in institutions of higher education.
    - Charter schools, other than for-profit charter schools, located within the school district.

Grants will be awarded to entities listed above considering any of the following:

- Establishing a dual language immersion program or developmental bilingual program for English learners;
- Expanding an established dual language immersion program or developmental bilingual program for English learners; or
- Establishing early learning dual language learner programs in state preschool programs operated by school districts and charter schools.

Participation in the grant program must be on a voluntary basis.

The Department of Education must identify criteria for evaluating applicants and awarding the grants. The application for the grant must include a description of all of the following:

- The high-quality curriculum and instruction the dual language immersion program or developmental bilingual program for English language learners will provide
- For each grant, projected grade levels, number of school districts, number of schoolsites, and number of classrooms proposed in the expansion or establishment of dual language immersion programs or developmental bilingual programs for English learners.
- The early learning dual language learners program to be provided to dual language learners in early childhood education programs, such as state preschool, the high-quality, standards-based curriculum and instruction, and the projected number of classrooms included for each grant.
- Pupil enrollment, disaggregated by English learners, dual language learners, and native speakers of English.
- How the program for which the applicant proposes to use the grant will serve the applicant's English learner population and dual language learners, including outreach to families to speak the target language of the new or expanded program.
- How the applicant will secure bilingual teachers, bilingual preschool educators, bilingual paraeducators, and bilingual program staff.
- How the applicant will sustain its expanded or new dual language immersion program, developmental bilingual program for English learners, or early learning dual language learners program beyond the three-year grant period.
- Evidence of support by the applicant school district's or districts' county board or boards of education or the governing board or boards of the school district or districts, or the authorizing body or bodies of the charter schools.
- Efforts to align program goals with school district responsibilities pursuant to Education Code 305 with respect to English Language Education.
- A program budget identifying the amount of funding proposed to be expended, including how much grant funding will be spent at each schoolsite.

- Available funding within the current or projected budget for the three-year grant period that the applicant will commit in addition to grant funding, including any funding received pursuant to its LCFF allocation, federal law, or other sources.
- How the applicant will collect data required by the department for purposes of the Department of Educations' report required by the Program (see below for discussion). The application must include the number of pupils to be served, including English learners, native English speakers, and dual language learners, by the applicant and the number of pupils successfully completing programs described in this article at the elementary and secondary levels and in early childhood education programs.
- Assurance that the applicant will sustain and maintain the program or programs described in this article and a description of the support, including funding, it commits to do so.

Grant recipients may use the grant funds of any of the following purposes:

- School administer, teacher, and staff training specific to the implementation and maintenance of programs under the grant;
- Recruitment of bilingual preschool, elementary, and secondary school teachers and paraeducators;
- Professional development for teachers after the initial establishment of the program;
- Establishment and support of language learning professional learning communities for teachers;
- Instructional coaches with demonstrated expertise and experience developing the programs provided for under the grant program; and
- Standards-based instructional materials in target languages for proposed programs under the grant program.

The bill also requires grant recipients to use the grant to supplement funding used for ongoing program costs received pursuant to its LCFF allocation and federal funding such as Title I, II, or III funding.

The Department of Education must give priority in awarding grants to proposals for programs with an enrollment that consists of at least 40 percent English learners at the elementary level and at least 50 percent English learners and reclassified fluent English proficient pupils at the middle and high school levels. If the Department of Education awards a grant to an applicant to establish a dual language immersion program or developmental bilingual program for English learners in a target language other than Spanish, it must provide additional funding of up to $20,000.00 over the amount of the grant awarded. The bill also provides for additional functions the Department of Education must perform, requires the Department of Education to consult with in the development of the grant criteria, and requires the Department of Education to submit a report to appropriate Legislative committees regarding the successes, outcomes, barriers or constraints, and best practices as a result of programs funded by the grant program.

The bill also provides definitions relevant to the grant program.

(AB 2514 adds Sections 33440, 33441, 33442, 33443, 33444, 33445, 33446, and 33447 to the Education Code.)

AB 2735 – Provides for Equal Educational Opportunity and Participation for English Language Learners.

Commencing in the 2019-2020 school year, a middle school or high school pupil classified as an English Learner, may not be denied participation in the standard instructional program by being denied any of the following:

- Enrollment in courses that are part of the standard instructional program of the school the pupil attends. This means, at a minimum, core curriculum courses, courses required to meet state and local graduation requirements, and courses required for middle school grade promotion.
- Enrollment in a full course load of courses that are part of the standard instructional program.

- Enrollment in courses that are not part of a school's standard educational program that either meet the subject matter requirements for recognition for college admission pursuant to Education Code section 66205.5 or are advanced courses, such as honors or advanced placement classes, on the sole basis of a pupil's classification as an English learner.

The bill provides for exceptions to the above. Pupils who are English learners may be denied enrollment in a course listed above if the pupil's course of study is designed to remedy any academic deficits incurred during participation, and the pupil's course of study is reasonably calculated to enable that pupil to attain parity of participation in the standard instructional program within a reasonable length of time, if the student is:

- A middle school or high school pupil who is classified as an English learner and who has recently arrived in the United States as defined in section 1111(b)(3)(A) o the federal Every Student Succeeds Act; or
- A middle school or high school pupil who is classified as an English learner and who is participating in a program designed to me the academic and transitional needs of newly arrived immigrant pupils that has as a primary objective the development of English language proficiency.

The exception may not be construed to prohibit, restrict, or discourage the enrollment of a pupil described above in courses that are part of the regular instructional program, in a full course load, in courses required for college admission, or in honors or advance placement courses.

This bill does not require a school to create supplemental courses in languages other than English.

This bill applies school districts, county offices of education, charter schools, the California Schools for the Deaf, and the California School for the Blind.

(AB 2735 adds Section 60811.8 to the Education Code.)

AB 3022 – Provides for the Granting of Retroactive High School Diplomas to Departed and Deported Pupils.

Education Code section 51430 provides for the retroactive grant of high school diplomas to certain persons. This bill adds a category of persons eligible for retroactive grants of high school diplomas. A school district, county office of education, or the governing body of a charter school may retroactively grant a high school diploma to a person if he or she meets of the following:

- The person has departed California against his or her will as defined in Education Code section 48204.4, subdivision (d);
- At the time of his or her departure, the person was enrolled in grade 12 of a high school operated by the school district, by or under the jurisdiction of the county office of education, or by the charter school;
- The person did not receive a high school diploma because his or her education was interrupted due to his or her departure; and
- The person was in good academic standing at the time of his or her departure.

In determining whether to issue a retroactive diploma, a school district, county office of education, or charter school must consider any coursework that may have been completed outside of the United States or that may have been completed by the pupil through virtual or online courses.

(AB 3022 amends Section 51430 of the Education Code.)

SAFETY

AB 1747 – Amends Requirements with Respect to Comprehensive School Safety Plans, and New Safety Measures for Charter Schools.

Prior to this amendment, the Education Code required California public schools, through their

school site councils to create comprehensive safety plans in cooperation with law enforcement agencies, community leaders, parents, pupils, teachers, administrators and other interested persons. AB 1747 adds classified employees as a group with whom schools must cooperate in creating comprehensive school safety plans. It also requires that all school staff be trained on the comprehensive school safety plan.

AB 1747 adds fire departments and other first responder entities as groups a school site council must consult with in creating a comprehensive school safety plans. In addition, the plan, and any updates to the plan, must be shared with any law enforcement agency, fire department, or first responder entities with whom the school site council consulted to create the plan.

AB 1747 requires that schools include in their comprehensive school safety plan procedures for conducting tactical responses to criminal incidents, including procedures related to individuals with guns on school campuses and at school-related functions. Procedures in the plan to prepare for active shooters or other armed assailants must be based on the specific needs and context of each school and community.

AB 1747 requires the Department of Education provide general direction to school districts and county offices of education on what to include in school building disaster portions of the comprehensive school safety plan. In addition, the Department of Education must maintain and post on its website a compliance checklist for schools to use to develop a comprehensive school safety plan.

This bill also adds requirements to the Charter Schools Act with respect to safety at charter schools. Charter petitions must now include, in the section regarding procedures the school will follow to ensure the health and safety of pupils and staff, all of the following:

- That each employee of the charter school must furnish the charter school with a criminal record summary as described in Education Code section 44237;
- The development of a school safety plan; and
- That the school safety plan be reviewed and updated by March 1 of every year by the charter school.

(AB 1747 amends Sections 32280, 32281, 32282, 32288, 47605, and 47605.6 of the Education Code.)

AB 2009 – Requires a Written Emergency Action Plan in the Event of Sudden Cardiac Arrest or Other Medical Emergencies during Interscholastic Athletic Program Events; Requires Automated External Defibrillators.

AB 2009 requires any school district or charter school that elects to offer an interscholastic athletic program must ensure that it maintains a written emergency action plan, which describes the location and procedures to be followed in the event of a sudden cardiac arrest or other medical emergency during the interscholastic athletic program's events. The action plan must comply with the most recent guidelines from the National Federation of State High School Associations.

AB 2009 also requires school districts or charter schools that elect to offer an interscholastic athletic program to acquire, by July 1, 2019, at least one automated external defibrillator (AED) for each school within the school district or charter school. The bill encourages school districts and charter schools to ensure that the AED or AEDs are available for rendering emergency care and treatment within the recommended three to five minutes of sudden cardiac arrest to pupil, spectators, and any other individuals present. School districts and charter schools must ensure that the AED or AEDs are maintained and regularly tested according to operation and maintenance guidelines of the manufacturer, the American Heart Association, the American Red Cross, and according to any applicable rules and regulations of the federal Food and Drug Administration and any other applicable state or federal authority.

The bill also provides immunity to school district and charter school employees for their use or nonuse of an AED under certain circumstances.

(AB 2009 adds Sections 35179.4 and 35179.6 to the Education Code.)

AB 2800 – Provides that Athletic Coaches Must Be Trained in Symptoms of Heat Illness.

The 1998 California High School Coaching and Education Training Program sets forth requirements for athletic coaches in school districts, including training requirements for CPR and first aid. This bill would add to the CPR and first training that districts must provide to athletic coaches. In addition to the current requirements, school districts must now provide training, which includes a basic understanding of the signs and symptoms of heat illness. Heat illness includes "heat cramps, heat syncope, heat exhaustion, and exertional heat stroke."

(AB 2800 amends Section 35179.1 of the Education Code.)

SB 1109 – Requires Schools that Sponsor or Conduct Sports Competitions to Annually Provide an Opioid Factsheet to Athletes.

Existing law requires a school district, charter school, or private school that elects to offer an athletic program to take specified actions if an athlete is suspected to have sustained a concussion and to obtain a signed concussion and head injury information sheet from the athlete and athlete's parent or guardian before the athlete initiates practice or competition.

This new law requires a youth sports organization, as defined, to annually give a specified Opioid Factsheet to each athlete, and requires each athlete and his or her parent to sign a document acknowledging receipt of that factsheet.

For purposes of this new law, a "Youth sports organization" is defined as an organization, business, nonprofit entity, or a local governmental agency that sponsors or conducts amateur sports competitions, training, camps, or clubs in which persons 17 years of age or younger participate in any of the following sports:

(A) Baseball.
(B) Basketball.
(C) Bicycle motocross (BMX).
(D) Boxing.
(E) Competitive cheerleading.
(F) Diving.
(G) Equestrian activities.
(H) Field hockey.
(I) Football.
(J) Full contact martial arts.
(K) Gymnastics.
(L) Ice hockey.
(M) Lacrosse.
(N) Parkour.
(O) Rodeo.
(P) Roller derby.
(Q) Rugby.
(R) Skateboarding.
(S) Skiing.
(T) Soccer.
(U) Softball.
(V) Surfing.
(W) Swimming.
(X) Synchronized swimming.
(Y) Volleyball.
(Z) Water polo.
(AA) Wrestling.

(SB 1109 amends Sections 1645, 2190.5, 2191, 2196.2, 2454.5, 2746.51, 2836.1, 3059, and 3502.1 of, and adds Section 4076.7 to, the Business and Professions Code, and adds Section 49476 to the Education Code, and Sections 11158.1 and 124236 to the Health and Safety Code, relating to controlled substances.)

AB 1798 – Requires that All Schoolbuses in Use in California be Equipped with a Passenger Restraint System on or before July 1, 2035.

Existing law currently requires that schoolbuses manufactured on or after July 1, 2004, or July 1, 2005, depending on vehicle capacity and weight, and purchased or leased for use in California be equipped with a passenger restraint system at all designated seating positions, unless specifically prohibited by the National Highway Traffic Safety Administration. The result of this is that not all schoolbuses that transport children currently have a passenger restraint system (i.e. seatbelts). Existing law specifically defines a passenger restraint system as any one of the following: (1) A restraint system that is in compliance with Federal Motor Vehicle Safety Standard 209, for a type 2 seatbelt assembly, and with Federal Motor Vehicle Safety Standard 210, as those standards were in effect on the date the schoolbus was manufactured; or (2) A restraint system certified by the schoolbus manufacturer that is in compliance with Federal Motor Vehicle Safety Standard 222 and incorporates a type 2 lap/shoulder restraint system.

Pursuant to this new law, on or before July 1, 2035, all schoolbuses in use in California must be equipped with a passenger restraint system.

(AB 1798 amends Section 27316 of the Vehicle Code).

AB 1840 – Requires Schoolbuses, School Pupil Activity Buses, and Youth Buses to be Equipped with an Operational Child Safety Alert System.

Existing law requires, on or before the beginning of the 2018–19 school year, that schoolbuses, school pupil activity buses, youth buses, and child care motor vehicles, except as provided, be equipped with an operational child safety alert system. This new law pushes the deadline for compliance from the beginning of the 2018-2019 school year to March 1, 2019, and provides that an additional six-month extension may be granted on an individual basis if certain documentation is submitted to the Department of the California Highway Patrol on or before March 1, 2019. An operational child safety alert system is defined as a device located at the interior rear of a vehicle that "requires the driver to either manually contact or scan the device before exiting the vehicle, thereby prompting the driver to inspect the entirety of the interior of the vehicle before exiting."

The law also requires the Department of the California Highway Patrol to consult with the State Department of Education in order to develop frequently asked questions related to the implementation of these requirements.

(AB 1840 amends Section 28160 of the Vehicle Code)

CURRICULUM

AB 1861 and 1868 – Adds Requirement to Comprehensive Sexual Health Education that Students Be Provided Additional Information about Human Trafficking and Use of Social Media and Mobile Devices.

The Education Code requires that school districts provide comprehensive sexual health education and HIV prevention education to all pupils in grades seven through twelve, inclusive. This Education Code also requires that a school district include in this comprehensive health education information about sexual harassment, sexual assault, sexual abuse and human trafficking. AB 1861 and 1868 require schools to provide additional information on human trafficking as part of comprehensive sexual health education. That information includes "information on how social medial and mobile device applications are used for human trafficking."

The bill also provides that a school district may provide optional instruction, as part of comprehensive sexual health education, information regarding the potential risks and consequences of creating and sharing sexually suggestive or sexually explicit materials through cellular telephones, social networking websites, computer networks, or other digital media.

NOTE:

AB 1861 and 1868 both sought to amend Education Code Section 51934. The language in the last paragraph became operative only if (1) both bills were enacted and became effective on or before January 1, 2019; (2) each bill amends Section 51934 of the Education Code; and (3) AB 1861 was enacted after AB 1868. All of these conditions have been met.

(AB 1861 and 1868 amends Section 51934 of the Education Code.)

AB 1809 – Establishes the California Student Author Program.

This bill establishes the California Student Author Program to accomplish the following for public school age children from extremely low-income communities:

- Improve English language skills;
- Improve academic performance;
- Build healthy relationships with the community;
- Equip participants with critical life skills;
- Promote positive life choices; and
- Increase literacy, reading, and writing among program participants.

Grant recipients shall implement the program in the 2019-2020 and 2020-2021 school years. Recipients must provide the literacy program to public school-age children who are eligible for free and reduced-price lunch. The recipient must also establish a student author program to provide the participants an opportunity to write, edit, and promote a short story or other forms of literature. The recipient should provide regular, sequential student author workshops that parallel or complement school calendars, such as quarterly, semester, or summer and vacation-intensive programs.

No later than January 1, 2020, the California State Library must report to the Legislature on the success of the program.

(AB 1809 adds Sections 54800, 54801, 54802, 54803, and 54804 of the Education Code.)

AB 2022 – Requires Schools of School Districts and County Offices of Education to Provide Information to Pupils and Parents or Guardians Information about How to Access Mental Health Services.

Under AB 2022, a school of a school district, including a charter school or county office of education must notify pupils and parents or guardians of pupils how to initiate access to available pupil mental health services on campus or in the community, or both. This notification must occur at least twice during the school year. The bill provides specific instruction regarding how schools must provide this information.

A school must use at least two of the following methods to notify parents or guardians of information regarding access to mental health services:

- Distributing the information in a letter, electronically or in hardcopy, including, but not limited to, through the postal service;
- Including the information in the parent handbook at the beginning of the school year in accordance with Education Code section 48980; or
- Posting the information on the school's website or social media webpages.

Counties may use funds form the Mental Health Services Act (Proposition 63) to provide a grant to a school district or county office of education for funding for the activities required by the bill. A school district, charter school, or county office of education may apply to its county for a grant.

(AB 2022 adds Section 49428 to the Education Code.)

AB 2601 – Requires Charter Schools to Provide Sexual Health Education to Pupils.

Existing law requires school districts to provide comprehensive sexual health education to pupils, and defined school district for purposes of the law to include county boards of education, county

superintendents of schools, the California Schools for the Deaf, and the California School for the Blind. Effective in the 2019-2020 school year, the definition of school district includes a charter school. Thus, this bill expands the requirement to provide comprehensive sexual health education to charter schools.

(AB 2601 amends Section 51931 of the Education Code.)

SB 720 – Adds Requirements for Environmental Education.

This bill requires the Instructional Quality Commission to ensure that the environmental principles and concepts developed pursuant to Public Resources Code section 71301 are integrated into the content standards and curriculum frameworks in the subjects of English language arts, science, history-social science, health, and mathematics whenever those standards and frameworks are revised.

The Instructional Quality Commission must incorporate the environmental principles and concepts as the State Board of Education determines to be appropriate, in the criteria developed for textbook adoption.

The bill also provides that as part of the unified education strategy specified in Public Resources Code 71301, the Office of Education and the Environment of the Department of Resources Recycling and Recovery must develop environmental principles and concepts for elementary and secondary pupils. The environmental principles and concepts must be updated every four years beginning July 1, 2008, by the Office of Education and the Environment of the Department of Resources Recycling and Recovery, in cooperation with the Superintendent of Public Instruction, the State Board of Education, the California Environmental Protection Agency, and the National Resources Agency.

When updating or amending the environmental principles and concepts, the office must ensure that the environmental principles and concepts are based on current scientific and technical knowledge, and shall solicit and coordinate input from the State Board of Education, the Superintendent of Public Instruction, and other executive branch agencies department, other environmental organizations with the relevant scientific and technical knowledge, and currently employed, credentialed public school classroom teachers with experience in education related to the environment. The Office of Education and the Environment of the Department of Resources Recycling and Recovery must conduct a minimum of two public meetings in order for the public to provide input on the modifications. The meetings must be held pursuant to the Bagley-Keene Open Meeting Act.

The environmental principles and concepts shall be aligned to academic content standards adopted by the State Board of Education in the subjects of English language arts, science, history-social science, health, and mathematics and shall not conflict with any academic content standards. The principles and concepts must be used to do all of the following:

- To direst state agencies that include environmental education components for elementary and secondary education in regulatory decisions or enforcement actions;
- To align state agency environmental education programs and materials that are developed for elementary and secondary education;
- For provision, by the Office of Education and the Environment of the Department of Resources Recycling and Recovery, of technical assistance to state agencies involved in the integration of the environmental principles and concepts into state curriculum standards, frameworks, and instructional materials pursuant to Education Code section 51227.3.; and
- The environmental principles and concepts must include, but not be limited to, concepts relating to the following topics: air, climate change, energy, environmental justice, environmental sustainability, fish and wildlife resources, forestry, integrated pest management, oceans, prevention, public health and the environment, conservation, waste reduction, and recycling, toxics and hazardous waste.

(SB 720 amends Section 71301 of the Public Resources Code and adds Section 51227.3 to the Education Code.)

PUPIL FINANCIAL MATTERS

AB 1871 – Requires Charter Schools to Provide Each Needy Pupil with One Nutritionally Adequate Free or Reduced-Price Meal during Each School Day.

AB 1871 sets forth Legislative findings regarding the need for charter schools to provide free and reduced-price meals to students, including with respect to California's poverty rates and rate of food insecurity, the impact of poverty on children, California's longstanding policy of guaranteeing all children at least one free or reduced-price meal during the school day, and California's large number of charter schools.

The bill requires charter schools to provide each needy pupil (as defined in Education Code section 49552) with one nutritionally adequate free or reduced-price meal during each school day. A nutritionally adequate meal is as defined in Education Code 49553, which addresses the amount of protein, dairy or grain necessary for each meal, as well as substitutes of fruit and yogurt.

Nonclassroom-based charter schools must meet the free or reduced-price meal requirement for any eligible pupil on any school day that the pupil is scheduled for education services (as defined in Education Code section 49010) lasting two or more hours at a school site, resource center, meeting space, or other satellite facility operated by the charter school.

Charter schools must implement this requirement commencing with the 2019-2020 school year. A charter school, which becomes operational on or after July 1, 2019 must:

- Implement this section no later than July 1 of the school year after becoming operational; and
- Provide written notification at the time of application or enrollment of the period of time for which the charter school will not implement the requirements of the bill. The notification must be provided to the parent or guardian of each pupil, or if the pupil is a foster child or youth or a homeless child or youth, to the pupil's educational rights holder. The written notices must be provided in languages other than English, consistent with languages used for the charter school enrollment application.

The chartering authority, which includes a school district, a county office of education, and the State Board of Education, must provide technical assistance in implementing this provision, upon request by the charter school and to the extent feasible within existing resources.

A charter school may enter into a partnership with an existing school food authority for the purposes of implementing this section.

(AB 1871 adds Section 47613.5 to the Education Code.)

AB 3043 – Authorizes Schools that Participate in the federal School Breakfast Program to Provide Universal Breakfast.

Existing law requires a school district or county superintendent of schools maintaining a kindergarten or any of grades 1 to 12, inclusive, to provide a needy pupil, as defined, one nutritionally adequate free or reduced-price meal during each schoolday, and authorizes the school district or county superintendent of schools to use funds available from any federal program, including the federal School Breakfast Program, or state program to comply with that requirement, as provided.

This law authorizes a school district, county office of education, private nonprofit school, charter school, or residential child care institution, as defined, that participates in the federal School Breakfast Program, commencing with the 2019-20 school year, after submitting certain documentation to the State Department of Education for approval, to provide universal breakfast, to the maximum extent practicable. The bill defines "universal breakfast" to mean a nutritionally adequate breakfast that complies with, and qualifies for reimbursement under, the federal School Breakfast Program and that is provided to every pupil at no charge.

(Amends Sections 38100, 38101, 49531, 49531.1, 49550.3, and 49590 of, and to add Section 49550.5 to, the Education Code, relating to pupil nutrition).

AB 1974 – Creates the Pupil School Fair Debt Collection Act.

AB 1974 adds the Public School Fair Debt Collection Act to the Education Code. The Act provides that a pupil or former pupil, unless emancipated at the time the debt is incurred, shall not owe or be billed for a debt owed to a public school or school district. Further, a public school or school district is prohibited from taking negative action against a pupil or former pupil because a debt owed. Negative action includes, but is not limited to, the following:

- Denying full credit for any assignments for a class;
- Denying full and equal participation in classroom activity;
- Denying access to on-campus educational facilities, including, but not limited to, the library;
- Denying or withholding grades or transcripts;
- Denying or withholding a diploma;
- Limiting or barring participation in an extracurricular activity, club, or sport.
- Limiting or excluding from participation in an educational activity, field trip or school ceremony.

Under the bill, the school or school district must provide an itemized invoice of any amount owed by the parent or guardian on behalf of the pupil or former pupil before pursuing payment of the debt. The invoice must include information about school polices relating to debt collection, as well as the rights pursuant to this bill and Education code section 49557.5 (which addresses payment for school meals). The school or school district must also provide a receipt for each payment made on the debt.

This bill does not apply to debt owed because of vandalism or to cover the replacement cost of public school or school district books, supplies, or property loaned to the pupil that the pupil fails to return or that are willfully cut, defaced, or otherwise injured. With respect to these debts, the school can offer alternative nonmonetary forms of compensation to settle the deck, such as service or work in exchange for repayment. The service or work must comply with all provisions of the Labor Code, including those with respect to youth employment. However, this provision does not apply if the pupil is a current foster homeless child or youth or a current or former foster youth.

Other than for debts owed because of vandalism, willful destruction, or the failure to return property, a debt collector contracted with a public school or school district for pursuing the repayment of debt may not report a debt owned by a parent or guardian on behalf of a pupil to a credit reporting agency.

The Public School Fair Debt Collection Act applies to school districts, charter schools, county offices of education, and state special schools.

(AB 1974 adds Section 49014 to the Education Code.)

AB 2015 – Requires School Districts and Charter Schools to Provide Information to Pupils Regarding How to Submit Documents Related to Requests for Financial Aid for Post-Secondary Education.

Beginning in the 2020-2021 school year, the governing board of a school district or charger school must ensure that the district or charter school provide each pupil information on how to properly complete and submit the Free Application for Federal Student Aid (FAFSA) or the California Dream Act application. This information must be provided to each student at least once before the student enters grade 12. The governing board has the discretion to determine how the information is provided, but the method to provide the information may include, but is not limited to, through in-class instruction, an existing program, family information sessions, or group or individualized sessions with school counselors.

The information provided must include, but is not limited to the following:

- The types of documentation and personal information each student financial aid application requires;
- An explanation of definitions used for each application;
- Eligibility requirements for student financial aid that may apply to the FAFSA or California Dream Act application; and
- The importance of submitting applications early, especially when student financial aid is awarded on a first-come, first-served basis.

Each governing board of a school district or charter school must provide a paper copy of the FAFSA or the California Dream Act application to each pupil, upon request by a pupil or a pupil's parent or guardian.

The governing board must ensure that all information shared by parents, guardians, and pupils under this bill is handled according to applicable state and federal privacy laws and regulations.

(AB 2015 adds section 51225.9 to the Education Code.)

MENTAL HEALTH

AB 2291 – Requires Local Educational Agencies to adopt Procedures for Preventing Bullying; Requires Department of Education to Post a List of Training Modules Regarding Bullying on its Website and Local Educational Agencies to Make Modules Available to Certain Employees.

This bill requires local educational agencies to adopt procedures for preventing acts of bullying, including cyberbullying on or before December 31, 2019. A "local education agency" means a school district, a county office of education, or a charter school.

This bill also requires the Department of Education to post on its website and annually update a list of available online training modules related to bullying or bullying prevention. Further, a school operated by a local educational agency must annually make the online training module developed by the Department of Education available to certificated schoolsite employees and other schoolsite employees who have regular interaction with pupils.

(AB 2291 adds Sections 234.4 to, and amends Section 32283.5 of the Education Code.)

AB 2315 – Requires Department of Education to Develop Guidelines for the Use of Telehealth Technology in Public Schools to Provided Mental and Behavioral Health Services.

This bill requires the Department of Education, in consultation with the State Department of Health Care Services and appropriate stakeholders to develop guidelines for the use of telehealth technology in public schools, including charter schools, to provide mental health and behavioral health services to pupils on school campuses. The Department of Education must develop the guidelines on or before July 1, 2020.

The bill defines "telehealth" as the mode of delivering health care services via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a pupil's health care while the pupil is at the schoolsite and the health care provider is at a distant site.

The guidelines developed must include guidance on all of the following:

- Qualifications of individuals authorized to provide assistance, within their scope of practice, to pupils to access mental health and behavioral health services via telehealth technology at a school site.
- Qualifications of individuals authorized to provide mental health and behavioral health services, within their scope of practice, to pupils via telehealth technology.
- Potential sources of funding for the purchase of the necessary equipment and technology infrastructure by schools to allow schools to provide telehealth services.

- The ability of mental and behavioral health services providers to access reimbursement through the Medi-Cal program or other sources for services provided to pupils at schoolsites via telehealth technology.
- The legal requirements for parental consent for the provision of mental health and behavioral health treatment of minors via telehealth technology.
- Measures necessary to protect the security of data transmitted via telehealth technology.
- Potential school district, county office of education, and charter school liability associated with the provision of telehealth services.

The Department of Education must poste the guidelines on its website on or before July 1, 2020. The bill will only be implemented if the Legislature makes sufficient funds are available to the Department of Education pursuant to an appropriation in the Annual Budget Act or another statue for that purpose.

(AB 2315 adds Section 49429 to the Education Code.)

AB 2639 – Adds Requirements to Governing Board Obligations to Adopt a Policy on Suicide Prevention.

In AB 2639, the Legislature made findings and declarations as follows:

- Suicide rates in the United States have increased steadily from 1999 to 2014 after a period of nearly consistent decline.
- Suicide among adolescents including among adolescents, and is now the second leading cause of death in youth and young adults, ages 10 to 24.
- School personnel are in a prime position to recognize the warning signs of suicide and make appropriate referrals for help. In fact, a national survey showed that the number one person a pupil would turn to in order to help a friend who might be suicidal was a teacher.
- If a pupil comes to a school staff member for help, it is imperative that the person has knowledge, tools, and resources to respond.
- Research on teacher and school staff preparedness has identified a lack of experience, training, and confidence to appropriately address mental health issues and suicidal ideation among pupils. The National Strategy for Suicide Prevention states that teachers and school counselors should be trained for suicide prevention.
- In 2016, the Legislature enacted SB 2246 requiring that each local educational agency adopt a pupil suicide prevention policy before the beginning of the 2017-2018 school year. These policies must address any training to be provided to teachers on suicide awareness and prevention.
- It is the intent of the Legislature that local educational agency policies on pupil suicide prevention be reviewed and, if necessary, updated to ensure that those policies remain relevant and address youth suicide prevention.

In furtherance of these findings and declarations, this bill requires that the governing board or body of a local educational agency – which includes county offices of education, school districts, state special schools, and charter schools – that serves pupils in grades seven through 12, inclusive, review its suicide prevention policy every fifth year, at a minimum, and update the policy if necessary. The bill also states that nothing in the bill shall prevent the governing board of a local educational agency from reviewing or updating its policy more frequently than every fifth year.

(AB 2639 amends Section 215 of the Education Code.)

ATTENDANCE

AB 2826 – Modifies Interdistrict Transfer Requirements and Adds Provisions for Migratory Children, Homeless Children, Foster Youth and Other Groups.

Education Code 46600 provides for governing boards of two or more school districts to enter into an agreement for the interdistrict transfer of pupils who are residents of the school districts. The bill modifies this statute to apply to schools that maintain classes in transitional kindergarten or grades one through 12

(previously, it applied to schools that maintain classes in kindergarten through grades one through 12). The bill designates the designee of the Superintendent as the person who may issue interdistrict permits, rather than the supervisor of attendance.

The bill also simplifies the approval for interdistrict transfer for a student who has been a victim of bulling. The bill amends the statute to provide priority for attendance to a student who has been the victim of an act of bullying committed by a pupil of the school district of residence, without regard to whether there is an existing interdistrict attendance agreement.

The bill provides that an existing transfer permit may not be rescinded for a student after June 30 following the completion of grade 10 or for pupils in grade 11 or 12. (Previously, the statute stated that the permit may not be rescinded for pupils entering grade 11 or 12.)

The statute originally provided that regardless of whether an agreement exists or a permit is issued, a school district of residence may not prohibit the transfer of a pupil who is a child of an active military duty parent to a school of proposed enrollment if the school district of proposed enrollment approves the application for transfer. This bill maintains the exception for pupil who are the children of active military parents, and expands the list of the type of pupil for whom the district of residence may not prohibit the transfer if the proposed school district approves the transfer to a pupil who is any of the following:

- Currently, or at any time within the previous five school years, a homeless child or youth, as defined in the McKinney-Vento Homeless Assistance Act;
- A currently migratory child or former migratory child, as those terms are defined in Education Code section 54441;
- A foster youth; or
- A victim of an act of bullying.

A victim of an act of bullying is defined as:

- A pupil who a district has determined to have been a victim of bullying through an investigation pursuant to the complaint process described in Education Code section 234.1;
- The bullying was committed by a pupil in the school district of residence; and
- The parent of the pupil has filed a complaint regarding the bullying with the school, school district personnel, or local law enforcement agency.

A school district that elects to accept an interdistrict transfer pursuant to these requirements must accept all pupils who apply to transfer who meet the above characteristics until the school district is at maximum capacity. Districts must select students through an unbiased process that prohibits inquiry into or evaluation or consideration of whether or not a pupil should be enrolled based on his or her academic or athletic performance, physical condition, proficiency in English, family income or any protected class, including, but not limited to, race or ethnicity, gender, gender identity, gender expression, and immigration status.

Upon request by a parent or guardian on behalf of a pupil eligible for transfer, a school district of enrollment must provide transportation assistance to the pupil if the pupil is eligible for free and reduced price meals. A school district of enrollment may provide transportation to any pupil admitted under this provision, regardless of eligibility for free and reduced price meals. The amount of transportation assistance provided may not exceed the supplemental grant received, if any, for the pupil.

Each school district of residence or school district of proposed enrollment must post on its website the procedures and timelines, including a link to the board policy on the topic, regarding a request for an interdistrict transfer permit in a manner that is accessible to the public without a password. The posting must include, but is not limited to, the following information:

- The date upon which the school district will begin accepting and processing interdistrict transfer requests for the subsequent school year;
- The reasons for which the school district may approve or deny a request, and any information or documents that must be submitted as supporting evidence;
- If applicable, the process and timelines by which a denial of a request may be appealed within the school district renders a final decision;
- That failure of the parent to meet any timelines established by the school district shall be deemed an abandonment of the request;
- Applicable timelines for processing a request, including statements that the school district will do both of the following:
    - Notify a parent submitting a current year request of its final decision within 30 calendar days from the date the request was achieved; and
    - Notify the parent submitting a future year request of its final decision as soon as possible, but no later than 14 calendar days after the commencement of instruction in the school year for which interdistrict transfer is sought.
- The conditions under which an existing interdistrict transfer permit may be revoked or rescinded.

A school district that denies a request for interdistrict transfer must advise the parent, in writing, of the right to appeal to the county board of education within 30 calendar days from the date of the final denial.

Any written notice to parents regarding a school district's decision on a request for interdistrict transfer must conform to the translation requirements of Education Code section 48985 and may be provided using any of the following methods; (1) regular mail; (2) electronic format, if the parent provides an email address; or (3) by any other method normally used to communicate with parents in writing.

This bill repeals significant portions of Education Code section 46601 with respect to the appeal of the denial of an interdistrict transfer. The bill provides that a parent may appeal a school district's denial of an interdistrict transfer to the county board of education, within 30 days of the date of the school district's final denial. Failure by the parent to meet this timeline constitutes good cause for rejection of the appeal. An appeal may be accepted only upon verification that the parent exhausted all appeals within the school district within the timelines provided by the school district. Written notice of the decision by the county board of education must be delivered to the parent and to the governing boards of the school districts. Notice must conform to the translation requirements of Education Code section 48985 and may be provided using any of the following methods; (1) regular mail; (2) electronic format, if the parent provides an email address; or (3) by any other method normally used to communicate with parents in writing.

The bill also modifies provisions related to provisional attendance pending decision of the governing board of the school district of residence and the school district of proposed enrollment or decision of the county board of education on appeal. A pupil shall be eligible for provisional attendance only if he or she provides reasonable evidence that a final decision on the interdistrict attendance is pending at the time of provisional attendance. The period of provisional attendance begins on the first day of the pupil's attendance in the school.

If a decision has not been rendered within two school months, and the school districts or county office of education are operating within prescribed timelines, the pupil may not be allowed to continue attendance at the school district of proposed enrollment. The pupil must enroll in the school district of residence or another educational program. Provisional attendance does not guarantee that a school district or county board of education will approve a request for interdistrict transfer.

The bill also provides definitions related to its provisions.

(AB 2826 amends Sections 46600, 46601, 46602, and 46603 of the Education Code and adds Sections 46600.1 and 46600.2 to the Education Code.)

WORK PERMITS

SB 1428 – Provides that Pupil Work Permits Must Be Issued Regardless of the Pupil's Grades, Grade Point Average or School of Attendance if the Pupil is Applying for the Work Permit to Participate in Government-Administered Employment Programs.

This bill provides that where a pupil is applying for a work permit in order to participate in a government-administered employment and training program that will occur during the regular summer recess or vacation, a school district may not deny a work permit based on a pupil's grades, grade point average, or school attendance.

(SB 1428 adds Section 49120 to the Education Code.)

SPECIAL EDUCATION

AB 2580 – Modifies the Standard for "Good Cause" for a Continuance of a Special Education Due Process Hearing.

Existing law required a party to a special education due process hearing to demonstrate "good cause" to continue a hearing in the matter. This bill provides a standard for "good cause." The bill requires the hearing officer overseeing the hearing to apply the standard set forth in California Rules of Court, Rule 3.1332 to determine whether the party seeking the continuance has demonstrated good cause. The bill also allows the hearing officer to grant a second or subsequent continuance for good cause or any other purpose at his or her discretion.

The bill makes other technical, clarifying changes to Education Code section 56505.

(AB 2580 amends Section 56505 of the Education Code.)

AB 2657 – Provides Limitations on, and Requirements for, Pupil Physical Restraint and Seclusion.

The bill makes several Legislative findings that are enumerated in Education Code 49005. The Legislature found and declared that:

- While it is appropriate to intervene in an emergency to prevent a student from imminent risk of serious physical self-harm or harm of others, restraint and seclusion are dangerous interventions, with certain known practices posing a great risk to child health and safety.
- United States Department of Education guidelines specify that the use of restraint and seclusion must be consistent with the child's right to be treated with dignity and be free from abuse.
- Restraint and seclusion should only be used as a safety measure of last resort, and should never be used as punishment or discipline or for staff convenience.
- Restraint and seclusion may cause serious injury or long lasting trauma and death, even when done safely and correctly.
- There is no evidence that restraint or seclusion is effective in reducing the problem behaviors that frequently precipitate the use of those techniques.
- Students with disabilities and students of color, especially African American boys, are disproportionately subject to restraint and seclusion.
- Well-established California law already regulates restraint techniques in a number of settings. These minimal protections should be provided to all students in schools.
- It is the intent of the Legislature to ensure that schools foster learning in a safe and healthy environment and provide adequate safeguards to prevent harm, and even death, to students in schools.
- This article is intended to be read consistent with and does not change any requirements, limitations or protections, in existing law pertaining to students with exceptional needs.

- It is the intent of the Legislature to prohibit dangerous practices. Restraint and seclusion, as described in this bill, do not further a child's education. At the same time, the Legislature recognizes that if an emergency situation arises, the ability of education personnel to act in that emergency to safeguard a student or others from imminent physical harm.

Physical restraint is defined as personal restriction that immobilizes or reduces the ability of a pupil to move his or her torso, arms, legs, or head freely. It does not include physical escort, which means a temporary holding of the hand, wrist, arm, shoulder, or back for inducing a pupil who is acting out to walk to a safe location. Mechanical restraint means the use of a device or equipment to restrict a pupil's freedom of movement. Restraint and mechanical restraint do not include the use of force, or devices, by peace officers or security personnel for detention or public safety purposes. Mechanical restraint also does not include vehicle safety restraints, restraints for medical immobilization, adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to provide greater freedom of mobility or orthopedically prescribed devices that permit a pupil to participate in activities without risk of harm.

Behavioral restraint means "mechanical restraint" or "physical restraint" used as an intervention when a pupil presents an immediate danger to self or others. It does not include postural restraints or devices used to improve a pupil's mobility and independent functioning rather than to restrict movement.

Seclusion is defined as the involuntary confinement of a pupil alone in a room or area from which the pupil is physically prevented from leaving. Seclusion does not include a timeout, which is a behavior management technique that is part of an approved program that involves the monitored separation of the pupil in a non-locked setting and is implemented for calming.

The bill provides that a pupil has the right to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff. This right includes, but is not limited to, a pupil's right to be free from the use of a drug administered to the pupil in order to control the pupil's behavior or restrict the pupil's freedom of movement, if that drug is not a standard treatment for the pupil's medical or psychiatric condition.

An educational provider must avoid, whenever possible, the use of seclusion or behavioral restraint technique. Further, an educational provider must not do any of the following:

- Use seclusion or behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation;
- Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room;
- Use a physical restraint technique that obstructs a pupil's respiratory airway or impairs the pupil's breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil's back or places his or her body weight against the pupil's torso or back;
- Use a behavioral restraint technique that restricts breathing, including, but not limited to. Using a pillow, blanket, carpet, mat, or other item to cover a pupil's face;
- Place a pupil in a facedown position with the pupil's hands held or restrained behind the pupil's back; and
- Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others.

If a pupil is placed in seclusion, the educational provider must keep constant, direct observation of the pupil in seclusion, through observation of the pupil through a window or another barrier, through which the educational provider may make direct eye contact with the pupil. The observation may not be through indirect means such as closed-circuit television or security camera. For a pupil who is restrained, an educational provider must afford the pupil the least

restrictive alternative and the least number of restraint points. If the educational provider uses prone restraint techniques, the staff member must observe the pupil for any signs of physical distress throughout the use of the prone restraint.

The bill defines "educational provider" as a person who provides a person who provides educational or related services, support, or other assistance to a pupil enrolled in an educational program provided by a local educational agency or nonpublic school or agency.

Local educational agencies, as defined by federal special education regulations, must collect, and no later than three months after the end of the school year, report to the Department of Education on the use of behavioral restraints and seclusion for pupils enrolled in or served by the local educational agency. The bill provides the requirements for the report. The data collection required by the bill must be conducted in compliance with the requirements of the Civil Rights Data Collection of the United States Department of Education's Office for Civil Rights imposed pursuant to federal regulations. The reporting requirements shall not be construed to impose a new program or higher level of service on local educational agencies or nonpublic schools or agencies.

This bill applies to all pupils, including individuals with exceptional needs.

(AB 2657 adds Sections 49005, 49005.1, 49005.4, 49005.6, 49005.8, 49006, 49006.2, and 49006.4 to the Education Code.)

AB 2109 – Sets Forth Requirements for Instruction to Students with Temporary Disabilities Who Are Confined to a Hospital.

AB 2109 provides that in addition to instruction provided at home for pupils with temporary disabilities, school districts and charter schools must also provide individual instruction in a hospital or other residential health facility (excluding state hospitals). The instruction must be provided by the school district in which the hospital or other residential health facility is located. This requirement does not limit the rights accruing to a pupil with a temporary disability who is also identified as an individual with exceptional needs.

The bill repeals section 48206.5 which provided that a school district which, prior to January 1, 1986, maintained a program to provide individual instruction to pupils with temporary disability may continue the program as it existed prior to January 1, 1986.

School districts must include information about a pupil's eligibility for, and the duration of, individual instruction for a pupil with a temporary disability, in their annual notices to parents and guardians pursuant to Education Code 48980.

School districts and charter schools may continue to enroll a pupil with a temporary disability who is receiving individual instruction in a hospital or other residential health facility. This will allow for both:

- The timely facilitation of the pupil's reentry into his or her prior school after hospitalization has ended; and
- In order to provide a partial week of instruction to a pupil who received individual instruction in a hospital or other residential health facility for fewer than five days of instruction per week, or the equivalent.

A school district or charter school may count the student with a temporary disability who is receiving individual instruction in a hospital or other residential health facility for computing average daily attendance only for the days on which the pupil receives individual instruction. The total attendance counted for such students may not exceed five days per week or the equivalent.

The supervisor of attendance must ensure that absences from the pupil's regular school program are marked as excused when the pupil has a temporary disability and is receiving individual instruction in a hospital or other residential health facility.

A pupil who has received individual instruction who is well enough to return to school must be allowed to return to the school, including a charter school, that he or she attended immediately before receiving individual instruction.

A pupil who attends a school operated by a school district or charter school who is subsequently enrolled in individual instruction in a hospital or other residential facility for a partial week, may attend school in his or her district of residence or receive individual instruction provided by the school district of residence in his or her home on days when he or she does not receive individual instruction in a hospital or other residential health facility. This applies only if the pupil is healthy enough to participate in individual instruction in the home.

In instances in which a school district or charter school is required to provide individual instruction to a pupil with a temporary disability in the home, the school district or charter school must begin the individual instruction within five working days after the school district or charter school has determined that the pupil must receive in home instruction.

The governing board of a school district, a county office of education, or the governing body of a charter school maintaining a high school may confer an honorary high school diploma on a student with a terminal illness. An honorary diploma must be clearly distinguishable from the regular diploma of graduation awarded to pupils of the school district, county office of education, or charter school.

(AB 2109 amends Sections 48206.3,48207, 48208, 48240, 51225.5 of, repeals Section 48206.5 of, and adds Sections 48207.3 and 48207.5 to the Education Code.)

AB 3223 – Revises the Definition of Braille in the Education Code Provisions Regarding Pupils with Exceptional Needs.

This bill revises the definition of "Braille" in Education Code section 3223. The bill defines "Braille" as a system of reading and writing through touch commonly known as Unified English Braille. Nothing in this bill shall prohibit the use of Nemeth Code for Mathematics and Science Notation in the teaching of mathematics and science, the use of Music Braille Code, or the use of International Phonetic Alphabet Braille Code.

(AB 3223 amends subdivision (d) of Education Code section 56350.)

AB 3192 – Requires the California Department of Health Care Services to Issue and Regularly Maintain a Program Guide for the LEA Medi-Cal Billing Option Program.

The Welfare and Institutions Code requires the Department of Health Care Services to amend the Medicaid state plan with respect to the billing option for services by local educational agencies to ensure that schools are reimbursed for all eligible services that they provide that are not precluded by federal requirements. This is referred to as the LEA Medi-Cal Billing Option program. This bill requires the Department of Health Care Services to issue and regularly maintain a program guide for the LEA Medi-Cal Billing Option program, in consultation with the LEA Ad Hoc Workgroup.

The program guide must contain fiscal and programmatic compliance information regarding processes, documentation, and guidance necessary for the proper submission of claims and auditing of local educational agencies, charter schools, and community colleges, as required under the LEA Medi-Cal Billing Option program. The program guide must also include, but not be limited to state plan amendments, Frequently Asked Questions, policy and procedure letters, trainings, provider manuals, and all other types of materials relevant to the LEA Medi-Cal Billing Option program.

The Department of Health Care Services may only adopt a revision of the program guide after providing 30 calendar days' written notice of the revision, including a statement of justification, to the LEA Ad Hoc Workgroup and all other participating local educational agencies, charter schools, and community colleges. Under extraordinary circumstances, when

revisions are necessary to reflect changes required by law or the federal Centers for Medicare and Medicaid services and those changes require immediate action, the department may provide less than 30 calendar days' written notice.

The Department of Health Care Services must conduct an audit of Medi-Cal billing option claim consistent with, but not limited to all of the following:

- The program guide and any revisions, including any revisions that are necessary to reflect changes required by law or the federal Centers for Medicare and Medicaid services, that are in effect at the time the service was provided;
- Generally accepted accounting principles;
- Federal audit regulations;
- Reasonable cost principles under the federal Medicare Program;
- The federal Centers for Medicare and Medicaid Service Provider Reimbursement Manual Part 1; and
- Any applicable federal or state statutes and regulations.

The Department of Health Care Services may issue and regularly maintain the program guide without taking regulatory action.

(AB 3192 amends Section 14115.8 of the Education Code.)

STUDENT RECORDS

SB 1036 – Requires Pupil Directory Information to Be Excluded from Minutes of Board Meetings.

This bill provides that a local educational agency – a school district, a county office of education, or a charter school – may not include directory information of a pupil or the pupil's parent or guardian in the minutes of a meeting of its governing board if the pupil or his or her parent or guardian has submitted a written request to exclude the information from the minutes. If the inclusion of the directory information is required by judicial order or federal law, then the information must be included in the minutes.

The bill provides that this section is not intended to affect the public's right of access to information pursuant to any other law.

(SB 1036 adds Section 49073.2 to the Education Code.)

BILLS UNIQUE TO COLLEGE STUDENTS

FINANCIAL AID

AB 38 – Clarifies and Makes Revisions to the Student Loan Servicing Act.

The Student Loan Servicing Act was enacted July 1, 2018. The purpose of the bill was to provide for the licensure, regulation, and oversight of student loan servicers by the Commissioner of Business Oversight. The Student Loan Servicing Act requires a license (a "student loan servicer license") for a person or corporation to engage in servicing student loans.

AB 38 makes various additions and revisions to the Student Loan Servicing Act. Under AB 38, the definition of a student loan servicer excludes a debt collector, as defined in Civil Code section 1788.2. However, debt collectors who also service non-defaulted student loans as part of their business or business operations are defined as "student loan servicers."

AB 38 allows the Commissioner of Business Oversight to require an applicant for a student loan servicer license to make some or all required filings to obtain or maintain a student loan servicer license with the Commissioner of Business Oversight through the Nationwide Multistate Licensing System & Registry.

AB 38 requires that an applicant for a license file an appointment irrevocably appointing the Commissioner of Business Oversight to be the applicant or licensee's attorney to receive service of process in any non-

criminal judicial or administrative proceeding against the applicant or licensee. Service may be made by leaving a copy of the process at any office of the commissioner, but that service is not effective unless (1) the party making that service, who may be the commissioner, sends notice of service and a copy of the process by registered or certified mail to the party served at its last address on file with the commissioner, and (2) an affidavit of compliance with this section by the party making service is filed in the case on or before the return date, if any, or within such further time as the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

AB 38 also adds several additional bases under which the Commissioner of Business Oversight may deny a student loan servicer license. These additional bases are:

- The applicant has violated, or is not in material compliance with the Act, or an order or rule of the Commissioner of Business Oversight.
- The applicant has not met a material requirement for issuance of a license.
- The applicant has violated the Act or any of its rules, or any similar regulatory scheme of this or a foreign jurisdiction.
- The applicant has been held liable in any civil action by final judgment or any administrative judgment by any public agency within the past seven years.
- The commissioner, based on its investigation of the applicant, is unable to find that the financial responsibility, criminal records, experience, character, and general fitness of the applicant and support a finding that the business will be operated honestly, fairly, efficiently, and in accordance with the requirements of the Act.

AB 38 provides for authorizes the Commissioner of Business Oversight to establish relationships or contracts with the existing Nationwide Multistate Licensing System & Registry or other entities for the purpose of collection and maintenance of records and process transaction fees or other fees related to licensed student loan servicers. The Commissioner of Business Oversight may waive or modify any part of the Act and to establish new requirements as reasonably necessary to participate in the Nationwide Multistate Licensing System & Registry. The Commissioner of Business Oversight must establish a process through which student loan servicer applicants and licensees may challenge information entered into the Nationwide Multistate Licensing System & Registry. The bill also provides privacy protections for certain information entered into the Nationwide Multistate Licensing System & Registry.

AB 38 provides that the Commissioner of Business Oversight has the discretion to require a person or entity not excluded from the definition of "student loan servicer" to prepare special reports, or answers to specific questions or requests for information.

AB 38 provides that in any proceeding under the Act by an entity to challenge an action of the Commissioner of Business Oversight, the burden of proving an exemption or exception from a division set forth in the Act is on the person claiming the exemption or exception.

Finally, AB 38 provides that there are no mandated costs related to the Act.

(AB 38 amends Sections 28102, 28104, 28106, 28110, 28114, 28116, 28120, 28134, 28136, 28142, and 28144 of the Financial Code, and adds Sections 2811128117, 28125, 28125.1 28125.2, 28153, and 28153.5 to the Financial Code.)

AB 1840 – Requires University of California to Provide Services, Benefits, and Assistance.

This bill states the Legislature's intent to affirm the ability of the University of California to provide services, benefits, and assistance to all students of the University of California. Thus, the University of California may provide services, benefits, and any other form of assistance aimed at furthering students educational success to all of its enrolled students who meet the eligibility requirements for any such program the University, or its campuses, establish.

(AB 1840 adds Section 66093.4 to the Education Code.)

AB 1858 – Requirement that each Campus of the University of California, California State University, and California Community Colleges Provide Students with the Financial Aid Shopping Sheet.

By January 1, 2020, and permanently thereafter, each campus of the University of California, California State University, and California Community Colleges must provide students with the Financial Aid Shopping Sheet as developed by the United States Department of Education. This form informs students or individuals who have been offered admission about financial aid award packages. A college or campus must provide the Financial Aid Shopping Sheet must be provided when it provides a financial aid award package, either via print or electronically, to an individual who is offered admission. Educational institutions may seek guidance from the United States Department of Education in implementing these requirements.

AB 1858 also provides that, in the event that the Financial Aid Shopping Sheet is no longer available from the United States Department of Education, the Student Aid Commission created by Education Code sections 69510 et seq, must develop a similar form in consultation with the Bureau for Private Postsecondary Education. The form must provide students and their families with information including, but not limited to, grant and scholarship opportunities and net costs associated with attendance at an institution.

(AB 1858 amends Section 69514 of the Education Code and adds Sections 66021.3 and 94912.5 to, the Education Code.)

AB 1895 – Amends the DREAM Loan Program to Require Procedures to Allow a Borrower to Select and Income-Based Repayment Plan.

Education Code sections 70030 et seq. establish the DREAM Loan Program which provides loans for immigrant students who are eligible for nonresident tuition under AB 540 (Education Code section 68130.5) and who attend educational institutions who have elected to participate in the program. The program is funded through the state's General Fund. Current law requires loans under the DREAM Loan Program to be repaid within 10 years.

This bill requires a participating institution must adopt procedures to allow a borrower under the DREAM Loan Program to select an income-based repayment plan for the repayment of a DREAM Loan Act in accordance with the standards set forth under the Federal William D. Ford Federal Direct Loan Program for income-based repayment plans.

(AB 1895 amends Section 70034 of the Education Code.)

AB 2210 – Requires Community Colleges to Post Notice of Persons Exempt from Nonresident Tuition.

This bill requires community college districts to post to their websites a notice that sets forth the persons exempt from paying nonresident tuition pursuant to Education Code section 68075.6.

(AB 2210 adds Section 68075.65 to the Education Code.)

AB 2554 – Provides System Fee and Tuition Waiver for Surviving Spouse or Child of a Deceased Person Who Was a Firefighter Employed by the Federal Government Who Provided Firefighting Services in California.

Existing law provides that the Regents of the University of California, the Board of Directors of Hastings College of the Law, the Trustees of the California State University, or the Board of Governors of the California Community Colleges may not require system-wide fees or tuition surviving spouses and children of certain persons. This bill adds to that list the surviving spouse or children of a firefighter employed by the federal government whose duty assignment involved the performance of firefighting services in California.

In its findings and declarations, the Legislature noted that California has had another season of record-breaking fire events, and that firefighters demonstrate selfless devotion to duty, regardless of whether their employer is California or the federal government. Further, providing survivor education benefits provides access to higher education, which is instrumental in a surviving family member's ability to effectively achieve economic stability.

(AB 2554 amends Section 68120 of the Education Code.)

AB 2990 – Requires Hastings College of the Law and Each Campus of the California Community Colleges and the California State University to Post Information about Tuition Waivers for Qualifying Survivors of Deceased Public Safety and Fire Suppression Personnel.

Each campus of the California Community Colleges and the California State University that has a website must provide an online posting or notice of system-wide fee or tuition waivers available to students pursuant to Education Code section 68120, which provides for tuition waivers for qualifying survivors of deceased public safety and fire suppression personnel. This bill also applies to the University of California and Hastings College of the law, if the UC Regents adopt the required resolution.

The notice must be done in accordance with all of the following:

- It shall be accessible through a permanent direct link to an application for a waiver of the system-wide fee or tuition;
- The direct link must appear on the primary webpage of the financial aid section of the campus website; and
- The direct link must be accompanied by a description of the system-wide fee or tuition waiver to clearly indicate the type of student who would potentially be eligible to apply.

(AB 2990 adds Section 68120.7 to the Education Code.)

AB 2722 – Establishes California Military Department GI Bill Award Program.

This bill amends the National Guard Education Assistance Award Program, and changes the title to the Military Department GI Bill. The bill notes that the state-sponsored education benefits to members of the California Military Department is an important tool for attraction and retention of highly competent and capable service members for the California Military Department. This incentive is to ensure that members of the California State Military, along with the California National Guard, are not placed at an educational disadvantage when compared to their active duty or reserve component counterparts.

The bill maintains most of the provisions from the National Guard Education Assistance Award Program. The bill adds that the Military Department GI Bill award may be used to obtain one baccalaureate, graduate, or doctoral degree. The award may also be used for a certificate, degree, or diploma that leads to a baccalaureate, graduate, or doctoral degree. In order to be eligible for the award, the person must agree to serve two years in the California National Guard, the Naval Militia, or the California State Military Reserve upon completion of the last academic period for which he or she uses educational assistance under this program. The person must also agree to complete his or her course of study within 10 years of the persons' initial acceptance into the program. If a person is unable to complete his or her course of study within the 10-year period due to federal military activation or other unexpected circumstance, the Adjutant General of the California Military Department may extend that person's participation for up to five additional years.

The bill also removes the allowance for $500.00 for books and supplies when the award is used for graduate studies.

Originally, the award program was to expire July 1, 2019. This bill repeals that provision. The bill also repeals a requirement that the Legislative Analyst prepare a report on the program by January 1, 2016.

(AB 2722 amends Sections 69999.10, 69999.12, 69999.14, 69999.16, 69999.18, 69999.20, 69999.24 of the Education Code, and repeals Sections 69999.25 and 69999.30 of the Education Code.)

SB 967 – Provides for Tuition Waiver for Attendance at a Campus of the University of California or the California State University for a Current or Former Foster Youth.

This bill provides that a campus of the University of California or the California State University may not charge any mandatory system-wide tuition or fees, including enrollment fees, registration fees, or incidental fees, to a current or former foster youth, if he or she meets all of the following conditions:

- Is 25 years of age or younger;
- Has been in foster care for at least 12 consecutive months after reaching 10 years of age;
- Meets any of the following:
    - Is under a current foster care placement order by the juvenile court;
    - Was under a foster care placement order by the juvenile court upon reaching 18 years of age; or
    - Was adopted, or entered guardianship, from foster care;
- Completes and submits the Free Application for Federal Student Aid (FAFSA);
- Maintains a minimum grade point average and meets other conditions necessary for the student to be in good standing at the public postsecondary educational institution in which he or she attends; and
- Meets the financial need requirements establish for Cal Grant Awards.

The waiver of fees shall not be in excess of the equivalent of attendance in a four-year undergraduate program. The amount of the waiver must be reduced by any state or federal financial aid, including scholarships or grants, received by the student for the academic year or semester, or the equivalent, in which the student receives the waiver.

(SB 967 amends Section 66025.3 of the Education Code.)

AB 3089 – Amends Provisions with Respect to Chaffee Grant Awards.

Education Code section 69519 provides for a federally funded scholarship program through a partnership between the Student Aid Commission and the State Department of Social Services, called the Chafee Educational and Training Vouchers Program. This bill amends that provision and provides that, commencing with the 2018-2019 award year, the Student Aid Commission shall make a Chafee grant award to a student only if the student meets both of the following conditions:

- He or she will not be 26 years of age or older by July 1 of the award year;
- He or she attends either of the following institutions:
    - A qualifying institution that is eligible for participation in the Cal Grant Program pursuant to Education Code section 69432.7; or
    - An institution that is not located in California that satisfies the provisions of Section 69432.7, subdivision (l)(3)(C) and (F) with respect to Cal Grants.

Implementation of this program is contingent upon appropriation of sufficient funds in the annual Budget Act for this purpose.

The bill also provides that, commencing with the 2018-2019 award year, the Financial Aid Commission or the State Department of Social Services may use up to $80,000 of any appropriation made by the Legislature in the Annual Budget Act or another statute to expand the Chafee Educational and Training Vouchers Program age eligibility of former foster youth up to 26 years of age for outreach purposes to newly eligible foster youth who are at least 23 years of age, but are not yet 26 years of age for the 2018-2019 to 2020-2021 fiscal years. Outreach purposes may include travel, material development, printing or publication, and other costs, as necessary.

This bill provides that the Financial Aid Commission must annually report to the Legislature all of the following information for the preceding award year:

- The number of students who apply to receive a Chafee grant award;
- The number if Chafee grants awarded;
- The number of Chafee applicants denied due to either of the following reasons:
  - The Chafee applicant no longer meets the age requirements of the program; or
  - There is insufficient proof of the Chafee applicant's status as current or former foster youth.
- The number of Chaffee awardees unpaid due to any of the following reasons:
  - Failure to meet standard academic progress according to campus policy;
  - Failure to meet standard academic progress according to campus policy; or
  - Any other common reason that a Chafee awardee did not receive a payment.
- The number and age of students paid through the Chafee Educational and Training Vouchers Program;
- The average Chafee grant award amount;
- Qualifying institutions where Chafee grant awards are utilized; and
- The amount spent on outreach and education efforts and the types of activities that the authorization regarding outreach funded. This information must include the distribution of outreach spending funded between the Financial Aid Commission and the Department of Social Services, and any other entity that was involved.

NOTE:

This bill was deemed an urgency statute. Therefore, it took effect upon approval by the governor on September 20, 2018.

(AB 3089 amends Section 69519 of the Education Code.)

Senate Resolution 84 – Encourages California Residents Eligible for the California Dream Act of 2011 to Fill out the California Dream Act Application.

Senate Resolution 84 notes that the Legislature, the Governor, the Attorney General, and all of the state's public institutions of education have pledged to do everything within the power of the law to protect "Dreamers" and DACA participants form deportation and discrimination. The Resolution finds that the State of California is better served when all of the state's best and brightest students seek a higher education, rather than remaining in the shadows. As a result, the Senate resolved that California residents eligible for in-state tuition and financial aid under the California Dream Act of 2011 are strongly encouraged to fill out the California Dream Act Application and continue the process of applying for college, in order to realize their full potential as productive, educated residents of our great State.

ENROLLMENT/ADMISSIONS

AB 1062 – Extends the Deadline to Allow a CSU Student to Enroll at an Online Course at Another CSU Campus, and for the Trustees to Establish a Series of Uniform Definitions with Respect to Cross-Enrollment in Online Courses at Different CSU's.

California law allows a student of the CSU system to enroll in online courses at other CSU campuses without submitting an application or paying fees to that campus. It also requires the Trustees of the CSU system to provide a series of uniform definitions for online education on or before January 1, 2015. AB 1062 amends Education Code section 89225 to repeal the January 1, 2015 deadline and to reflect that the Legislature intends that the purpose for the requirement to provide uniform definitions is for measuring effectiveness of online education "as a tool in system-wide efforts toward degree or certificate completion."

The Trustees were required by the original version of Education Code section 89226 to report on seven items related to online education by January 1, 2017. AB 1062 requires that the Trustees of the CSU report on those items by January 15, 2019, and adds four more items on which the Trustees must report:

- Student enrollment (full-time equivalent and headcount) in all state-supported online courses, disaggregated by undergraduate and graduate students, as well as by campus;
- Cross-campus online enrollment (full-time equivalent) by host campus;
- Successful course completion rates in cross-campus online courses; and
- Courses completed by cross-enrolled online students, specifying the type of academic credit they received, including lower division, upper division, or graduate level.

(AB 1062 amends Sections 66760.5, 66764, 89225, and 89226 of the Education Code.)

AB 1809 – Requires Communication and Marketing Strategy for Admission of Student with an Associate Degree for Transfer to Private Nonprofit Postsecondary Educational Institutions.

This bill provides that, where private nonprofit postsecondary educational institutions choose to commit to accept students with an associate degree for transfer, the Chancellor's Office of the California Community Colleges and those private nonprofit postsecondary educational institutions must develop a student-centered communication and marketing strategy to increase the visibility of the associate degree for transfer pathway. The information may include, but is not necessarily limited to the following:

- Outreach to high schools relative to the associate degree for transfer pathway that build upon existing high school outreach programs and activities performed by the California State University and the University of California.
- Pathway information that may be prominently displayed in all community college counseling offices and transfer centers.
- Pathway information that may be provided to all first-year community college students developing an education plan to aid them in making informed educational choices.
- Targeted outreach on the pathway that may be provided to first-year community college students through campus orientations and student support services programs offered by the campus that may include, but are not necessarily limited to, Federal TRIO Programs, First-Generation Experience, MESA, and Puente.
- Information on the pathway that may be prominently displayed in community college course catalogs.
- Information on the pathway that may be prominently displayed on the Internet Web sites of each community college and private nonprofit postsecondary educational institution that choose to commit to accept a student with an associate degree for transfer, and on the California Colleges Internet Web site, californiacolleges.edu.

(AB 1809 adds Section 66749.7 to the Education Code.)

AB 3101 – Requires Revisions to the Application Process for the Community Colleges of California; Prohibits Requiring Residency Classification Requirements for Students Enrolling in Noncredit Classes.

This bill provides that a student seeking to enroll exclusively in career development and college preparation courses, and other courses for which no credit is given, may not be subject to the residency classification requirements for admission to a community college. This requirement does not prevent the Chancellor of the California Community Colleges from collecting residency data for this type of student if the student voluntarily submits the evidence after he or she enrolls at a community college.

This bill requires the Chancellor of the Community Colleges to revise the community college online application process so that the application collects only data required by the federal government, state law, or is otherwise necessary, as determined by the chancellor, in the application process. To the extent that data can be collected from the student later, the chancellor may delay the collection of that data until after the student has applied.

(AB 3101 adds Sections 68086 and 71030 to the Education Code.)

Assembly Resolution 150 – Recognizes Dual Enrollment Week.

This Resolution recognizes the week of March 18, 2018 to March 24, 2018 as Dual Enrollment Week in California and encourages colleges and universities to visit high schools and take action to help pupils enroll in dual enrollment colleges.

SB 1004 – Creates a Program for Youth Outreach and Engagement for Secondary School and Transition Age Youth in Partnership with College Mental Health Programs.

This bill requires the Mental Health Services Oversight and Accountability Commission to establish priorities for the use of prevention and early intervention funds. This includes youth outreach and engagement strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs.

Youth outreach and engagement refers to strategies that target secondary school and transition age youth, with a priority on partnerships with college mental health programs that educate and engage students and provide either on-campus or off-campus, or linkages to mental health services not provided through the campus to students who are attending colleges and universities. This includes public community colleges. Outreach and engagement may include, but is not limited to:

- Meeting mental health needs of students that cannot be met through existing education funds;
- Addressing direct services for students including increasing college mental health staff-to-student ratios;
- Establishing direct linkages to community-based mental health services including those for which reimbursement is available through the student's own health coverage;
- Participating in evidence-based and community-defined best practice programs for mental health services;
- Serving undeserved and vulnerable populations, including, but not limited to lesbian, gay, bisexual, transgender, and queer persons, victims of domestic violence and sexual abuse, and veterans and reducing racial disparities in access to mental health services.
- Funding mental health stigma reduction trainings and activities;
- Providing college employees and students with education and training in early identification, intervention, and referral of students with mental health needs;
- Interventions for youth with signs of behavioral or emotional problems, who are at risk of, or have an, contact with the juvenile justice system.
- Integrated youth mental health programming and suicide prevention programming.

(SB 1004 adds Sections 5840.5, 5840.6, 5840.7, and 5840.8 of the Welfare and Institutions Code.)

COURSE CREDIT

AB 1786 – Requires Chancellor of the Community Colleges to Establish an Initiative to Expand the Use of Course Credit for Prior Learning.

Previously, Education Code section 66025.7 provided that, by July 1, 2015, the Chancellor of the California Community Colleges must determine which course credit should be awarded to students for prior military experience. AB 1786 removes that language, and requires the Chancellor of the Community Colleges to establish an initiative to expand the use of course credit at the California Community Colleges for students with prior learning. (The statute no longer refers to military experience.) The initiative must identify best practices for the use of course credit for students with prior learning, locate and collect available resources, and provide professional development in connection

with the identified best practices. The initiative must the best practices for purposes of establishing potential pilot programs and shall provide recommendations for internal system-wide policy changes to expand the use of course credit at the California Community Colleges for students with prior learning.

AB 1786 also requires the Chancellor of the California Community Colleges to submit a report to the Legislature by January 1, 2020 on the initiative, activities established by the initiative, and recommendations for legislative policy changes necessary to implement the best practices identified by the initiative.

(AB 1786 amends Section 66025.7 of the Education Code.)

AB 1805 – Requires Community Colleges to Provide Information Regarding Transfer-Level Coursework, Academic Credit ESL Coursework, and Multiple Measures Placement Policies.

AB 1805 requires community colleges, as a condition for receiving Student Equity and Achievement Program funding, to inform students of their rights to the following:

- Right to access transfer-level coursework and academic credit English as a second language (ESL) coursework; and
- Multiple measures placement policies developed by the community college, as required by Education Code section 78213.

The information must be easily understandable and prominently featured in the following:

- The course catalog;
- Orientation materials;
- Information relating to student assessment on the community college's website; and
- Any written communication by a college counselor to a student about the student's course placement options.

Community colleges must also publicly post their placement results, including the number of students assessed and the number of students placed into transfer-level coursework, transfer-level coursework with concurrent support, or transfer-level credit ESL coursework. This information must be disaggregated by race and ethnicity.

According to AB 1805, the community college must report the following to the office of the Chancellor of the Community College the community college's placement policies and The community college's placement results disaggregated by race and ethnicity, including:

- The number of students assessed;
- The number of students placed into transfer-level coursework, transfer-level coursework with concurrent support, or transfer-level or credit ESL coursework; and
- For students placed in stand-alone English or mathematics pretransfer-level coursework, a community college district or college must provide, based on local placement research, an explanation of how effective practices align with the regulations adopted pursuant to Education Code section 78213.

A community college or district must satisfy the above requirements by the implementation date of regulations adopted pursuant to Education Code section 78213.

(AB 1805 adds Section 78221.5 to the Education Code.)

AB 2134 – Allows a Student Enrolled in an Approved Course of Instruction in a School of Barbering to Work as an Unpaid Extern upon Completion of 60 Percent of Clock Hours Required for Graduation from the Course.

The Business and Professions Code originally allowed students enrolled in a cosmetology program work as an unpaid extern. This bill revises those requirements to require that the student be in enrolled in an approved course of education in a school of cosmetology approved by the Board of Barbering and Cosmetology.

This bill allows a student in an approved course of instruction in a school of barbering to work as an unpaid extern in an establishment participating in the educational program of the school if the student has completed a minimum of 60 percent of the clock hours required for graduation in the course. The student working as an extern shall receive clock hour credit toward graduation from the program, but the credit may not exceed eight hours per week or 10 percent of the total clock hours required for completion of the course.

The purpose of the externship program established by the bill is to provide students with skills, knowledge, and attitudes necessary to acquire employment in the field for which they are being trained and to extend formalized instruction. Instruction must be based on skills, knowledge, attitudes, and performance in the area of barbering for which the instruction is conducted. Participation in the externship must be voluntary. The student may terminate the externship at any time, and participation may not be used as a requirement for graduation.

The externship program must be conducted in an establishment meeting the following criteria (which are the same that allow a student of cosmetology to work as a paid extern):

- The establishment is licensed by the Board of Barbering and Cosmetology;
- The establishment has a minimum of four licensees working in the establishment, including employees and owners and managers;
- All licensees at the establishment are in good standing with the Board of Barbering and Cosmetology;
- Licensees working at the establishment work for salaries or commissions rather than on a space rental basis;
- No more than one extern may work in an establishment for every four licensees working in the establishment;
- No regularly employed licensee may be or have his or her work hours reduced to accommodate the placement of an extern. Prior to placement of the extern, the establishment must agree in writing sent to the school and all affected licensees that no reduction or alteration of any licensee's current work schedule shall occur. This does not prevent a licensee from voluntarily reducing or altering his or her work schedule; and
- Externs must wear conspicuous school identification at all times while working in the establishment. Externs must carry a school-laminated identification, which includes a photo.

An extern may perform only acts listed within the definition of the practice of barbering (see Business and Professions Code section 7316) if the licensee directly supervises the acts. An extern may not use or apply chemical treatments unless the extern has received appropriate training in the application. An extern may work on a paying client only in an assisting capacity and only in the direct an immediate supervision of a licensee. An extern may not perform any work in a manner that would violate the law. At least 90 percent of the responsibilities and duties of the extern must consist of the acts included in the practice of barbering. The establishment must consult with the assigning school regarding the extern's progress on a regular basis, and the owner or manager must monitor and report to the school regarding the extern's progress on a regular basis. The participating school must also assess the extern's learning outcomes, and maintain regular records of the extern's educational experience and how the experience translates into course credit.

An establishment that utilizes an extern is liable for the extern's general liability insurance and barbering malpractice insurance. The establishment must provide proof of the insurance to the participating school.

(AB 2134 amends Sections 7349 and 7395.1 of the Business and Professions Code and adds Section 7395.2 to, the Business and Professions Code.)

INSTRUCTION

AB 1809 – Establishes the California Online Community College.

This bill establishes the California Online Community College to be administered by the Board of Governors. This includes the creation of an organized system of accessible, flexible, and high-quality online content, courses, and programs focused on providing industry-valued credentials compatible with the vocational and educational needs of Californians not currently accessing higher education. The courses and programs must lead to a pathway offered at traditional community college.

The college shall be considered a district and a community college within the California Community Colleges system and the state's public system of higher education. The college must be guided by principles and procedures developed by the chancellor's office and established by the board of governors. The college may collaborate and work closely with other agencies, industry partners, and experts to ensure the success of the college.

The college shall conduct all of the following activities:

- Establish competency-based educational opportunities that recognize students' prior learning and help students advance toward credential;
- Supplement registered apprenticeship programs and the California Apprenticeship Initiative training as appropriate and create apprenticeship instructor upskilling training, courses, and programs that are valued by the labor and employer communities;
- Identify opportunities to develop short-term, stackable credentials and industry certifications with labor market value;
- Develop, adapt, or apply technology to meet the ongoing needs of students;
- Develop a Research and Development Unit that utilizes current and future learning sciences technology, assesses data within the college's technical infrastructure to gauge student progress in a course or pathway, informs instructional support strategies, and improves the functionality of the underlying technology used by the college;
- Redesign transcripts in a digital, verifiable format that links coursework, credentials, and competencies to track a student's entry body of learning in one document;
- Identify shortcomings in the student experience for unserved and underserved students, and develop technological and programmatic solutions to address the gap; and
- Distribute gains in data and learning science and effective technology-enabled tools and resources throughout the California Community Colleges.

The college shall establish an Academic Senate for the California Online Community College. Upon establishment, the faculty shall review the Online Education Initiative Protocolss for online content and adopt as appropriate.

(AB 1809 adds Section 75000 – 75011 of the Education Code.)

AB 2385 – Requires Textbook Publishers to Provide Certain Information With Regard to College Textbooks.

AB 2385 states that the State of California, consistent with Section 133 of Title I of the federal Higher Education Act of 1965, as amended, encourages textbook publishers to:

Post the following information in a prominent location on the publishers' websites, where it is readily available to college faculty, students, and departments, both of the following types of information:

- A list of all of the different products they sell, including both bundled and unbundled options, and the net price of each product; and
- A detailed description of how the newest edition of a textbook differs from the previous edition, including an initial summary of content changes such as reordered, renamed, or deleted chapters.

The description must detail the changes in each chapter, including but not limited to, additions, subtractions, and revisions. The description shall apply to changes in text, illustrations, statistics, graphics, and any other component of the chapter. The bill also states that the state urges textbook sellers to add links to the publishers' descriptions established pursuant to this requirement.

(AB 2385 amends Section 66406 of the Education Code.)

AB 2850 – Provides for Online or Distance Learning for Training for Certified Nurse Assistant Training Programs and Revises Requirements for the Instructor.

This bill provides that a person who provides instruction or training in an educational institution as part of a certified nurse assistant precertification training program may be any licensed vocational nurse or registered nurse with at least two years of nursing experience, of which no less than one year is in providing care and services to chronically ill or elderly patients in an acute care hospital, skilled nursing facility, intermediate care facility, home care, hospice care, or other long-term care setting. Persons providing this training shall not be required to hold a teaching credential to provide instruction as part of this program.

This bill provides for an online or distance learning nurse assistant training program. The online or distance learning program must comply with the following requirements:

- Provide online instruction in which the trainees and the approved instructor are online at the same or similar times and which allows them to use real-time collaborative software that combines audio, video, file sharing, or any other forms of approved interaction and communication;
- Require the use of a personal identification number or personal identification information that confirms the identity of the trainees and instructors, including, but not limited to, having trainees sign an affidavit attesting under penalty of perjury to their identity while completing the program;
- Provide safeguards to protect personal information;
- Include policies and procedures to ensure that instructors are accessible to trainees outside of the normal instruction times;
- Include policies and procedures for equipment failures, student absences, and completing assignments past original deadlines;
- Provide a clear explanation on its website of all technology requirements to participate and complete the program; and
- Provide the State Department of Public Health with statistics about the performance of the trainees in the program, including, but not limited to, exam pass rate and the rate at which trainees repeat each module of the program, ad any other information requested by the State Department of Public Heath regarding trainee participation in and completion of the program.

The online or distance learning nurse assistant training program must meet the same standards as a traditional, classroom-based program, and comply with any other standard established by the State Department of Public Health.

As a condition of approval by the State Department of Public Health, the online or distance learning program must provide the State Department of Public Health with access rights to the program for the purposes of verifying that program complies with all requirements and allowing the department to monitor online or distance learning sessions.

An online nurse assistant training program must contract with a licensed skilled nursing facility or intermediate care facility for the purpose of coordinating and completing the clinical portion of the nurse assistant training program.

The State Department of Public Health may implement, interpret, or make specific this section by means of an All Facilities Letter without taking regulatory action.

(AB 2850 amends Sections 1337.1 and 1337.3 and adds 1337.15 and 1337.16 to the Health and Safety Code.)

SB 1348 – Requires the State Chancellor to Provide a Report to the Legislature Regarding Allied Health Professional Clinical Programs.

This bill requires the State Chancellor to provide a report to the Legislature with comparative clinical placement delineated by program and occupation for each community college program that offers certificates or degrees related to allied health professionals. This Chancellor must provide this report beginning in July 1, 2019 and provide it each year thereafter. The report must include both of the following:

- The number of students participating at each clinical training site. This shall include information about proficiency in languages other than English.
- The license number of each clinical training site.

The requirement that the Chancellor collect and report findings will be implemented over multiple years. The bill provides the schedule for which the Chancellor must collect and report findings, based on the type of degrees and certificates issued. All disclosures under the bill must comply with state and federal privacy laws.

(SB 1348 adds Section 88826.5 to the Education Code.)

SB 1406 – Extends Date by Which Student Must Complete the Baccalaureate Degree Pilot Program.

Current law provides that the Board of Governors of the Community Colleges, in consultation with the California State University and the University of California, may authorize the establishment of a district baccalaureate degree pilot program. Previously, the law provided that a student participating in the baccalaureate degree program must complete his or her degree by the end of the 2022-2023 academic year. This bill changes that requirement to state that a student must *commence* his or her baccalaureate degree program by the beginning of the 2022-2023 academic year, thus extending the student's timeline for completion. A district who participates in this program must notify the student of this date.

This bill also changes the date upon which the Legislative Analyst's Office must conduct an interim and final statewide evaluation of the statewide baccalaureate degree pilot program from July 1, 2022 to July 1, 2021.

The bill also provides that the Education Code provisions relevant to this program shall become inoperative on July 1, 2026 and will be repealed effective January 1, 2027 unless a later statute enacted before January 1, 2021 deletes or extends that date.

(SB 1406 amends Sections 78041, 70842, and 70843 of the Education Code)

ACCOMMODATION

AB 2785 – Provides Lactation Accommodations for Students of California Community Colleges and California State University.

Effective January 1, 2020, this bill requires the California Community Colleges and the California State University, and encourages the University of California, to provide reasonable accommodations on their respective campuses for a lactating student to express breast milk, breast-feed an infant child, or address other needs related to breast-feeding.

Reasonable accommodations include, but are not limited to, the following:

- Access to a private and secure room, other than a restroom, to express breast milk or breast-feed an infant child. The room must have a comfortable place to sit, and include a table or shelf to place a breast pump or any other equipment to express breast milk. A campus of the California Community Colleges and the California State University may use an existing facility to meet these requirements;
- Permission to bring a breast pump and any other equipment to express breast milk onto a college or university campus; and
- Access to a power source for a breast pump or any other equipment to express breast milk.

The lactation accommodation must be available to a student whenever a student is required to be present on campus. The California Community Colleges, California State University, and the University of California may not assess an academic penalty against a student as a result of the student's use of the reasonable accommodations discussed above, and must provide an opportunity for the student to make up any work missed due to use of the accommodations.

A campus of the California Community Colleges and the California State University must include a sink in addition to the accommodations described above, if the room designated for expressing breast milk or breast-feeding does not already have a sink:

- Upon the construction of a new campus; or
- The replacement, expansion, or renovation costing $5,000,000.00 or more involving the plumbing of an existing building regularly used by students, including a student center

Complaints of noncompliance with the requirements of this bill by a campus of the California Community Colleges may be filed pursuant to Title 5 regulations regarding discrimination. If the complaint is found to have merit, the campus or appropriate appellate body shall provide a remedy to the affected student.

Complaints of noncompliance with the requirements of this bill by the California State University may be filed consistent with the procedures established by the California State University for complaints of discrimination based on discrimination based on disability, gender, or other applicable characteristics. The student must be afforded any remedies to which the student is entitled pursuant to those procedures.

The bill does not infringe on any right to breast-feed in public pursuant to Section 43.3 of the Civil Code or any other law.

(AB 2785 adds Section 66271.9 to the Education Code.)

AB 2894 – Requires Postsecondary Institutions to Provide Students Called to Active Military Duty During an Academic the Right to Withdraw, Receive an Incomplete, or be Graded Based on Work Completed.

Existing law requires public and private postsecondary educational institutions to refund 100% of the tuition and fees paid by a student to the institution for the academic term in which the student was required to report for military service, regardless of whether the student was called to military service before the academic term had commenced or after the academic term had commenced.

This new law provides that, subject to applicable federal, state, and institutional refund and withdrawal policies, when a student, as defined, is called to active military duty during an academic term, the student may either: (1) choose to withdraw from the institution, retroactive to the beginning of the academic term; (2) choose to request that the faculty member assign a grade for the course based on the work the student has completed if the student has completed at least 75% of the academic term; or (3) elect to receive a grade of Incomplete and be provided with a minimum of 4 weeks from the date of return to the Institution to complete the course requirements.

(AB 2894 adds Chapter 2.7 (commencing with Section 99130) to Part 65 of Division 14 of Title 3 of the Education Code.)

HOUSING/FOOD SERVICE

SB 1227 – Allows Density Bonuses for Student Housing for Low Income Students.

Existing law provides for an applicant to seek a density bonus for housing developments. Density bonuses are an incentive-based tool that incentivize development by permitting developers to increase the maximum allowable development on a site in exchange for either funds or in-kind support for specified public policy goals.

This bill provides that a city, county, or city and county, must grant a density bonus for development in which twenty percent of the total units are for lower income students in student housing developments that meet certain requirements. The units must be used exclusively for undergraduate, graduate, or professional students enrolled full-time at an institute of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community or Junior Colleges. In order to receive the density bonus, the developer must provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or a master lease with one or more institutions of hire education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions.

Twenty percent of the units must be used for lower income students. This is defined as students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients. The eligibility must be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled. The rent for the units must be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy type. The development must provide priority for low-income students experiencing homelessness.

(SB 1227 amends Section 65915 of the Education Code.)

AB 1961 – Requires All Institutions of Higher Education in the State to Separately List the Cost of Housing and Meal Plans.

This new law requires each institution of higher education with a physical presence in this state to separately list the cost of institutionally operated housing and meal plans on all Internet Websites and documents it provides to students for purposes of advertising or otherwise displaying the student costs associated with institutionally operated housing.

(AB 1961 adds Section 69503.6 to the Education Code.)

AB 1894 – Requires a Campus Food Facility that Participates in the Restaurant Meals Program to Meet All of the Requirements for Participation in the Program.

The California Restaurant Meals Program allows eligible homeless, disabled, or elderly (ages 60 and above) CalFresh benefit recipients to use their CalFresh benefits to purchase hot, prepared food from participating restaurants. Existing law requires each public and private postsecondary educational institution that is located in a county that participates in the Restaurant Meals Program (RMP) to apply to become an approved food vendor for the program, if the institution operates any qualifying food facilities, as defined, on campus, or to provide contracting on-campus food vendors, as defined, with specified information about the program. This law requires an approved on-campus qualifying food facility that participates in the RMP to meet all of the requirements for participation in that program. This law also provides that, for purposes of this provision, a qualifying food facility is a facility administered by the postsecondary educational institution.

(AB 1894 amends Section 66025.93 of the Education Code.)

COUNSELING

AB 1896 – Clarifies the Scope of the Sexual Assault Counselor-Victim Privilege as Applicable to Counselors Providing Services to Students on College Campuses.

Existing law, pursuant to Evidence Code section 1035.2, establishes a privilege for a victim of a sexual assault to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault counselor, if the privilege is claimed by the holder of the privilege, a person who is authorized to claim the privilege by the holder of the privilege, or the person who was the sexual assault counselor at the time of the confidential communication, except as specified. Because there has been uncertainty among practicing sexual assault counselors as to whether this privilege extends to

counselors who provide these services and support to students on college campuses, this new law was passed in order to clarify that the privilege does extend to sexual counselors providing services and support to students on college campuses.

This new law, which amends Evidence Code section 1035, specifically includes within the definition of "sexual assault counselor" any person who is engaged in a program on the campus of a public or private institution of higher education, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to section 13837 of the Penal Code and who meets one of the following requirements:

1. Is a psychotherapist as defined in section 1010; has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape crisis counseling.
2. Has 40 hours of training as described below and is supervised by an individual who qualifies as a counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include, but not be limited to, the following areas:
   - (A) Law.
   - (B) Medicine.
   - (C) Societal attitudes.
   - (D) Crisis intervention and counseling techniques.
   - (E) Role playing.
   - (F) Referral services.
   - (G) Sexuality.

(AB 1896 amends Section 1035.2 of the Evidence Code).

CHILDCARE AND PRESCHOOLS

AB 605 – Creates a Single Integrated License for Child Care Centers.

California currently requires a separate infant-toddler license for private fee, state, and federally funded child care programs. Community Care Licensing (CCL) provides and administers separate licenses for Infants (Birth-2yrs) and Preschoolers (2yrs-entering first grade). The "Toddler Component" refers to the component of an infant or preschool care program license designed for children between the ages of 18 months and 36 months.

This new law requires the State Department of Social Services, in consultation with stakeholders, to adopt regulations on or before January 1, 2021, to create a single integrated license for child care centers license to serve infant, toddler, preschool, and schoolage children with all respective health and safety requirements. The new law also requires the State Department of Social Services to develop guidelines for an optional toddler program for children 18 months to 3 years of age and creates new health and safety standards for this program, including setting an adult/child ratio of six children to each teacher.

(AB 605 amends Sections 1596.76, 1596.955, and 1596.956 of, and to add Section 1596.951 to, the Health and Safety Code, relating to care facilities.)

AB 2370 – Requires Training on Lead Exposure as a Condition of Licensure, Distribution of Information on Lead Exposure, and Regular Testing of Drinking Water.

Under existing law, the California Child Day Care Facilities Act, the State Department of Social Services ("the department") licenses and regulates child day care facilities, as defined, and family day care home licensees. The act requires that, as a condition of licensure and in addition to any other required training, at least one director or teacher at each day care center, and each family day care home licensee who provides care, have at least 15 hours of health and safety training, covering specified components, including

a preventive health practices course or courses on recognition, management, and prevention of infectious diseases and prevention of childhood injuries.

This new law additionally requires, as a condition of licensure for licenses issued on or after July 1, 2020, the health and safety training to include instruction in the prevention of lead exposure as a part of the preventive health practices course or courses component. This new law also requires the child day care facility, upon enrolling or reenrolling any child, to provide the parent or guardian with written information on the risks and effects of lead exposure, blood lead testing recommendations and requirements, and options for obtaining blood lead testing, as specified.

This bill also requires a licensed child day care center that is located in a building that was constructed before January 1, 2010, to have its drinking water tested for lead contamination levels on a specified schedule and to notify parents or legal guardians of children enrolled in the day care center of the requirement to test the drinking water and the results of the test. If a licensed child day care center is notified that it has elevated lead levels, the law requires the day care center to immediately make inoperable and cease using the affected fountains and faucets and obtain a potable source for water for children and staff. The law requires the State Water Resources Control Board to post all test results received pursuant to these provisions on its Internet Web site and requires the department, in consultation with the State Water Resources Control Board, to adopt regulations implementing these provisions no later than January 1, 2021. The law authorizes the department to implement and administer these provisions through all-county letters or similar written instructions until regulations are adopted. Because a violation of certain requirements of this law or regulations adopted under the law would be a crime, this law imposes a state-mandated local program.

This law requires the state board to provide grants for testing drinking water lead levels in licensed child day care centers and other specified activities, from any funds appropriated to the state board for those purposes.

(AB 2370 amends Sections 1596.866 and 1596.8661 of, and to add Sections 1596.7996 and 1597.16 to, the Health and Safety Code, relating to lead exposure.)

AB 108 – Creates Uniform Standards for County Child Care Pilot Operations.

Existing law authorizes the Counties of Alameda, Contra Costa, Fresno, Marin, Monterey, San Benito, San Diego, Santa Clara, Santa Cruz, Solano, and Sonoma, as individual pilot projects, to develop an individualized county child care subsidy plan. Existing law also authorizes the City and County of San Francisco and the City of San Mateo to develop and implement individualized county child care subsidy plans that include specified elements.

This new law creates more uniform standards for pilot operation and CDE review. It also eliminates the requirement that 50% of the children in California state preschool be at least 4 years old, and adds six months to the sunset date of each pilot.

(AB 108 amends Sections 8212, 8332, 8332.1, 8332.2, 8332.3, 8332.4, 8332.5, 8332.7, 8335.1, 8335.3, 8335.4, 8347.2, 8347.3, 8347.4, and 8499.5, and the heading of Article 15.1 (commencing with Section 8332) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code. Adds Sections 8332.25, 8332.8, and 8335.5 to the Education Code. Repeals Section 8335.2 of, and Article 15.1.1 (commencing with Section 8333), Article 15.1.1 (commencing with Section 8334), Article 15.3 (commencing with Section 8340), Article 15.4.1 (commencing with Section 8348), and Article 15.4.2 (commencing with Section 8349) of Chapter 2 of Part 6 of Division 1 of Title 1 of, the Education Code. Amends Sections 99101, 99102, 99106, 99108, and 99109 of the Government Code, and repeals Section 99104 of the Government Code.)

AB 2698 –Provides an Adjustment Factor for Reimbursement Rates for Child Care Providers who Provide Mental Health Consultation Services.

The Child Care and Development Services Act currently establishes a system of child care and development services for children up to 13 years of age, and requires the Superintendent of Public Instruction to implement a plan establishing assigned reimbursement rates, per unit of average daily enrollment, to be paid by the state to provider agencies for the provision of those services. Existing law also provides for an adjustment factor to be applied to units of average daily enrollment if a provider agency serves children who meet specified criteria.

This law provides an incentive for child care providers to provide early childhood mental health consultation services available to more children by allowing providers to use existing state funding for early childhood mental health consultants working with California State preschools programs or general child care programs. Pursuant to this law, programs for children who are served in a California state preschool program, infants and toddlers who are 0 to 36 months of age and are served in general child care and development programs, or children who are 0 to 5 years of age and are served in a family child care home education network setting funded by a general child care and development program, have an adjustment factor of 1.05 applied where early childhood mental health consultation services, as defined, are provided, pursuant to specified requirements.

Existing law prohibits reporting a child who meets the criteria for more than one adjustment factor under more than one adjustment factor category. This law, notwithstanding that prohibition, requires, for a child who meets the criteria for one of specified adjustment factors and for the adjustment factor added by this law, that the reported child days of enrollment for that child be multiplied by the sum of the specified applicable adjustment factor and 0.05.

(AB 2698 amends Section 8265.5 of, and adds Section 8265.2 to, the Education Code, relating to child care.)

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