



# EDUCATION LEGISLATIVE ROUNDUP

Yearly developments in education, labor and employment law.

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## 2019

*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, 2020**, 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.*

### EMPLOYMENT

#### ARBITRATION

#### **AB 51 – Prohibits Employers From Requiring Arbitration Of FEHA Or Labor Code Claims As Condition Of Employment.**

AB 51 adds a new Section 432.6 to the Labor Code, which provides the following under subsection (a):

*“A person shall not, as a condition of employment, continued employment, or the receipt of any employment-related benefit, require any applicant for employment or any employee to waive any right, forum, or procedure for a violation of any provision of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) or this code, including the right to file and pursue a civil action or a complaint with, or otherwise notify, any state agency, other public prosecutor, law enforcement agency, or any court or other governmental entity of any alleged violation.”*

The general impact of the bill’s language will be to prohibit employers from requiring any applicant or employee to submit claims under the California Labor Code or the Fair Employment Housing Act (“FEHA”) to a mandatory arbitration agreement as a condition of employment. The bill also clarifies that any employment arbitration agreement that requires an employee to affirmatively opt out of the agreement in order to preserve their rights is deemed a “condition of employment.”

AB 51 also prohibits an employer from threatening, retaliating, discriminating against, or terminating employees or applicants because they refused to waive any such right, forum, or procedure. An employer found to be in violation of

Section 432.6 may be subject to an unlawful employment practice under FEHA. A court may award an impacted applicant/employee injunctive relief and any other remedies available, in addition to reasonable attorney's fees.

There are limited exceptions to this new law for public educational employers. The most relevant being that this new law does not apply to post dispute settlement agreements or negotiated severance agreements. In addition, existing mandatory employment arbitration agreements in effect prior to January 1, 2020 are not impacted. Rather, these new restrictions will apply only to contracts for employment entered into, modified, or extended on or after January 1, 2020.

While this new law also indicates that it the Legislature does not intend to invalidate a written arbitration agreement that is otherwise enforceable under the Federal Arbitration Act, it is not entirely clear what that means for mandatory arbitration agreements that would otherwise include waivers of the rights, forums, and procedures of Labor Code and FEHA claims. As a result, it is unclear whether the Federal Arbitration Act will preempt AB 51. LCW anticipates legal challenges to AB 51 before the courts to clarify this issue.

While there are some legal arguments indicating that the Labor Code does not apply to public sector agencies, including public educational institutions, unless expressly stated in the specific code section (which is not the case with AB 51), there are other cases that have found otherwise. As a result, any school district, county office of education, charter school, community college district, University of California, or California State University that currently uses mandatory arbitration employment agreements as a condition of employment must prepare to comply with AB 51 on January 1, 2020. In order to comply with this law, employers will have a choice of either halting the practice of requiring employees and applicants to enter into arbitration agreements as a condition of employment altogether, or to modify these arbitration agreements to make clear that FEHA and Labor

Code claims are not subject to mandatory arbitration. For employers who select the second option, LCW recommends working closely with legal counsel to have their arbitration agreements modified to comply with AB 51.

*(AB 51 adds Section 12953 to the Government Code and adds Section 432.6 to the Labor Code.)*

### ***SB 707 – Sets Forth Sanctions For The Failure Of An Employer To Timely Pay Arbitration Costs.***

For any public educational institution employers that require employees to enter into arbitration agreements, SB 707 establishes requirements for employers to pay arbitrations costs in a timely fashion or else face possible sanctions, including a waiver of the right to compel arbitration, liability for an employee's attorney's fees, and even possible evidentiary or termination sanctions.

SB 707 affirms previous state and federal court decisions relating to employment or consumer arbitration agreements where an employer or company fails to pay arbitration fees and sets forth penalties for failing to do so. As applied to employment arbitration agreements, the following penalties apply:

1. Failure to Timely Pay Arbitration Fees and Costs Will Result in a Waiver of the Right to Compel Arbitration, and Permits the Employee to Proceed in Court

Pursuant to SB 707, in an employment arbitration in which the employer is required to pay certain fees and costs associated with arbitration, if the fees or costs are not paid within 30 days after the due date, the employer is in material breach of the arbitration agreement, is in default of the arbitration, and waives its right to compel arbitration. As a result, if the employer materially breaches the arbitration agreement and is in default of the arbitration, the employee may either withdraw the claim from arbitration and proceed to bring the claim in court or compel arbitration.

In all cases in which the employee proceeds in

court based on the employer's failure to timely pay arbitration fees and costs, the statute of limitations period with regard to all claims brought are tolled as of the date of the first filing of a claim in any court, arbitration forum, or other dispute resolution forum.

## 2. Failure to Timely Pay Arbitration Fees and Costs Will Result in the Employer Being Liable for Employee's Attorney's Fees and Costs and May Result in Evidentiary or Terminating Sanctions

If the employee elects to compel arbitration after the employer materially breaches the arbitration agreement and is in default, as set forth above, SB 707 requires the employer to pay reasonable attorney's fees and costs related to the arbitration and to impose other sanctions.

If the employee proceeds with an action in a court of appropriate jurisdiction, SB 707 requires the court to impose a monetary sanction on the employer who materially breaches an arbitration agreement, and authorizes the court to impose other sanctions, including the following:

- (1) An evidence sanction by an order prohibiting the employer from conducting discovery in the civil action; or
- (2) A terminating sanction by one of the following orders:
  - (A) An order striking out the pleadings or parts of the pleadings of the employer.
  - (B) An order rendering a judgment by default against the employer.
- (3) A contempt sanction by an order treating the employer as in contempt of court.
- (4) Attorneys' fees and costs associated with the abandoned arbitration proceedings.

Public employers need to be cognizant that any failure to pay arbitration fees and costs in an employment arbitration could have a significant adverse

impact on the continuation and cost of such proceedings as noted above.

*(SB 707 amends Sections 1280 and 1281.96 of and adds Sections 1281.97, 1281.98, and 1281.99 to the Code of Civil Procedure.)*

## CREDENTIALING

### *AB 525 – Requires Reports Regarding Teacher Workforce.*

Existing law provides that for multiple subject teaching credentials, the baccalaureate degree may be in the subject of professional education. This bill provides that for single subject teaching credentials, the baccalaureate degree shall not be in the subject of professional education.

This bill requires the Commission on Teacher Credentialing to periodically provide reports and recommendations to the Legislature regarding the state's teacher workforce for purposes of developing and reviewing state policy, identifying workforce trends, and identifying future needs. The Commission shall make these reports publicly available on the commission's website.

A program of professional preparation shall provide experience in health education, field experience in delivering educational services to special needs students, and experience with advanced computer-based technology.

*(AB 525 amends Section 44225, 44225.6, 442305, 44257, 44259, 44260.1, 44260.3, 44274.4, 44275.4, 44320.2, 44328, and 44468 of the Education Code.)*

### *AB 988 – Allows Applicants To Demonstrate An Area Of Concentration Based On Two Years' Expertise.*

Current law allows the Commission on Teacher Credentialing to authorize an out of state teacher

to teach if they meet certain requirements. One of the requirements is that the out of state teacher has earned a valid teaching credential based on an out of state teacher preparation program.

This bill amends the law to allow an applicant for an education specialist credential to demonstrate the area of concentration based on two years of experience in California, while the candidate holds the preliminary credential.

*(AB 988 amends Section 44274.2 of the Education Code.)*

***AB 1219 – Requires Commission On Teacher Credentialing To Administer A State Assignment Accountability System To Provide School Districts With Data For Monitoring Certificated Employee Assignments.***

Current law requires a county superintendent of schools to monitor school district certificated employee assignment practices. Existing law requires a county superintendent of schools to submit an annual report to the Commission on Teacher Credentialing and the State Department of Education summarizing the results of all assignment monitoring. Under existing law, the Commission on Teacher Credentialing is required to submit biennial reports to the Legislature concerning teacher assignments and misassignments. A “misassignment” means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee the statute does not otherwise authorize the teacher to hold. This bill repeals teacher assignment monitoring provisions.

Under this bill, the County Office of Education remains a monitoring authority. Additionally, this bill requires the Commission on Teacher Credentialing to administer a State Assignment Accountability System to provide school districts with a data system for assignment monitoring. The

Commission shall use the data provided by to produce an annual initial data file of vacant positions and certificated employee assignments that do not have a clear match of credential to assignment. The Commission shall notify schools and monitoring authorities of the opportunity to access the system and review the initial data file of potential misassignments and vacant positions. Schools can review the file and submit any additional documentation to show employees are legally authorized for an assignment or that a position is not vacant. The Commission will then make a final determination regarding misassignments.

If the District assigned an employee to an illegal assignment, the employee should exhaust local remedies and if necessary notify the county superintendent or charting authority. This bill prohibits a school from taking adverse action against a certificated employee who provides that notice.

According to this bill, if a district evaluates a teacher while misassigned the teacher is misassigned, the evaluation is null and void.

The bill requires, beginning with the 2020–21 school year, the Commission to make annual misassignment and vacant position data publicly available on its website.

*(AB 1219 amends Sections 44230.5, 44253.10, 44253.11, 44258.3, of the Education Code. It also repeals Section 44258.9 of the Education Code and adds Sections 44258.9 and 44258.10 of the Education Code.)*

***SB 478 – Revises Membership On The Commission On Teacher Credentialing To Include A Certificated Human Resources Administrator And An Ex Officio Representative From The Board Of Governors Of The California Community Colleges.***

Existing law provides for the establishment of the Commission on Teacher Credentialing consisting of 15 voting members, including 4 representatives of the public and provided for the composition of the committee. Existing law provided for four mem-

bers of the public to sit on the committee. SB 478 reduces that number to three. SB 478 also adds that the Committee shall include one certificated human resources administrator in a public elementary or secondary school in California.

Previous law provided that the California Postsecondary Education Commission shall appoint a non-voting ex officio member of the Commission. It also provided that the Board of Governors of the California Community Colleges could appoint a non-voting ex officio member in the absence of the California Postsecondary Education Commission's absence. SB 478 removes the provision for membership of the California Postsecondary Education Commission and provides that the California Community Colleges shall appoint a non-voting ex officio member to the Commission.

SB 478 also makes technical changes to Education Code Section 44210 regarding the term of each member.

*(SB 478 amends Section 44210 of the Education Code.)*

## DISCRIMINATION, HARASSMENT, AND RETALIATION

### *AB 9 – Increases Fair Employment And Housing Act Statute Of Limitations From One To Three Years.*

The California Fair Employment and Housing Act ("FEHA") prohibits discrimination, harassment, and retaliation in employment based on protected classifications such as race, national origin, sex, sexual orientation, religion, age over 40, disability, and medical condition, among other protected categories. Currently, a covered individual (applicant, employee, or former employee) who alleges a violation under the FEHA has one year from the date of such unlawful practice to file a verified complaint with the Department of Fair Employment and Housing ("DFEH") or the claim would generally be

time-barred.

AB 9 will now increase the statute of limitations for bringing such an administrative charge so a covered individual will now have up to three years from the date of such unlawful practice to file a verified complaint with the DFEH. This new statute of limitations will go into effect on January 1, 2020. While AB 9 does clarify that its application will not revive any lapsed claims under the older one-year statute of limitations, this also seems to imply that any potential claims that did not lapse by December 31, 2019 would now get the benefit of the new three-year statute of limitations from the date of such unlawful practice.

This bill will require public educational institution employers to be prepared to defend against FEHA claims involving actions that took place up to three years ago and may involve former employees who an employer has not interacted with for some time. AB 9 will also cause a greater disparity between the ability to file discrimination, harassment, and retaliation claims under California's FEHA and its federal law counterparts under Title VII, where complainants must file such complaints within 300 days of the alleged unlawful practice with the federal Equal Employment Opportunity Commission ("EEOC"). While the EEOC and DFEH generally cross-file with the other agency any timely discrimination, harassment, and retaliation complaints that apply under both state and federal law, the DFEH will now only be able to process any such complaints under state law that are filed over 300 days and up to three years from the date of the alleged unlawful practice.

In response to AB 9, public educational institution employers should prepare good written records in a contemporaneous manner of any claims of discrimination, harassment, and retaliation, and to properly maintain such records so employers can referenced and rely upon them to defend against any FEHA claims.

*(AB 9 amends Sections 12960 and 12965 of the Government Code.)*

***SB 188 – Expands Nondiscrimination Laws To Protect Traits Historically Associated With Race, Including Hair Texture And Hairstyles.***

SB 188 extends California’s workplace discrimination protections to cover race-related traits, including hair. The bill expands the definition of “race” under the Fair Employment and Housing Act. Effective January 1, 2020, “race” will include “traits historically associated with race, including, but not limited to, hair texture and protective hairstyles.” The law further specifies that “protective hairstyles” “includes, but is not limited to, such hairstyles as braids, locks, and twists.” This change in the law includes protection from such discrimination against employees.

The bill appears primarily intended to prevent unequal treatment related to natural Black hairstyles. The bill includes a legislative declaration that “*Despite the great strides American society and laws have made to reverse the racist ideology that Black traits are inferior, hair remains a rampant source of racial discrimination with serious economic and health consequences, especially for Black individuals.*” The declaration also states that “*Workplace dress code and grooming policies that prohibit natural hair, including afros, braids, twists, and locks, have a disparate impact on Black individuals as these policies are more likely to deter Black applicants and burden or punish Black employees than any other group.*”

Although the bill specifically references Black hairstyles, the statutory changes it establishes may be broader. For example, under the new statutory language, it appears employers are prohibited from discriminating based on any trait “*historically associated with race.*”

Employers should ensure they update their policies (including, but not limited to, anti-harassment policies, dress codes and grooming standards) in accordance with this change of law going into effect January 1, 2020.

*(SB 188 amends Section 12926 of the Government Code and amends Section 212.1 of the Education Code.)*

***SB 229 – Expands The Labor Commissioner’s Enforcement Of Retaliation Violations.***

SB 229 expands the Labor Commissioner’s mechanisms for enforcing an employer’s violation of the Labor Code’s anti-retaliation provisions. If the Labor Commissioner investigates a retaliation complaint and determines that a violation took place under the Labor Code, the Labor Commissioner may issue a citation to the person or employer responsible for the violation. SB 229 establishes procedural requirements and deadlines for the Labor Commissioner to file citations with the court for judicial enforcement and the collection of remedies. The bill also provides procedural requirements for any person or employer who wishes to contest such citation.

*(SB 229 amends Section 98.74 of the Labor Code.)*

***SB 778 – Extends Effective Date For Implementation Of Harassment Prevention Training Requirements To Calendar Year 2020.***

During the 2018 Legislative Session, the California Legislature passed SB 1343, which expanded harassment prevention training to include non-supervisory employees and required employers to train all employees in calendar year 2019. After the passage of SB 1343, there were a number of issues and concerns related to the implementation of the new law. Governor Newsom has now signed into law clean-up legislation SB 778 to address these issues. SB 778 will now delay the implementation of the new harassment training requirements and any refresher training until calendar year 2020. As urgency legislation, SB 778 went into effect immediately upon Governor Newsom’s approval of the law on August 30, 2019.

SB 778 makes the following modifications to harassment training requirements that the Legislature added on January 1, 2019 as a result of last year’s SB 1343:

1. Implementation of harassment prevention training not required now until calendar year 2020.

The requirement to provide harassment prevention training to both supervisory and nonsupervisory employees is now not required until calendar year 2020, as opposed to the previous SB 1343 requirement that employers conduct all applicable harassment training in 2019. This new change in the law will allow employers more time to provide any required training to those employees not already trained – especially nonsupervisory employees who are now required to receive at least one hour of harassment training every two years.

This change will also provide the Department of Fair Employment and Housing (“DFEH”) more time to prepare and make available online harassment training for employers to use to comply with the requirements mandated by SB 1343. This new law should also give the DFEH more time to update their regulations on harassment prevention training to better define what is required for the new one-hour nonsupervisory harassment training. Currently, such DFEH regulations only reference the previous AB 1825 two-hour supervisory employee harassment training requirements that are not entirely applicable to nonsupervisory employees.

2. Any compliant harassment prevention training conducted in 2019 would not require refresher training again until calendar year 2021.

By extending out the timeline to provide harassment training to calendar year 2020, SB 778 addressed concerns raised by employers who already provided compliant harassment training for both supervisory and nonsupervisory employees in calendar year 2018 and would have had to re-train such employees a year earlier this year under SB 1343. With the new 2020 timeline for implementing this training, any previous 2018 harassment training would be on track for the standard two-year follow-up training in calendar year 2020.

Even for those employers who already provided

SB 1343-compliant training to supervisory and nonsupervisory employees this year in 2019, the new law addresses this scenario by indicating that refresher training is not required again for another two years – which would be in calendar year 2021.

### What Employers Should Do Now

The main impact of SB 778 is that employers now have more flexibility in implementing the new requirement to provide at least one hour of harassment prevention training to nonsupervisory employees that last year’s SB 1343 established. Instead of providing this new training this year, employers now have until the end of calendar year 2020 to provide this training to nonsupervisory employees.

Now that SB 778 has been effective since August 30, 2019 as urgency legislation, employers who provided compliant harassment training to supervisory or nonsupervisory employees in 2018 do not have to schedule refresher trainings earlier than the standard two-year track for refresher trainings – which would result in such trainings being scheduled next year (2020).

Finally, it is important to continue following the existing requirement that supervisory employees receive this training within six months of hire under the original AB 1825 training requirements. Therefore, regardless of whether an employer provided harassment prevention training to employees in 2018, any new supervisory employees would still need to receive this training within six months of their hire date if that timeline falls in calendar year 2019.

*(SB 778 amends Section 12950.1 of the Government Code.)*

## DOMESTIC PARTNERSHIPS

### *SB 30 – Eliminates Same-Sex And Age Requirements For Forming A Domestic Partnership.*

California law currently defines a registered domestic partnership as two adults who have chosen to share their lives with each other in an intimate and committed relationship of mutual caring and who have registered with their partnership with the Secretary of State's office. Where parties have established such a registered domestic partnership, California law provides the same rights and privileges as married spouses to the domestic partners. However, under current law a registered domestic partnership can only be established where: (1) both persons are members of the same sex; or (2) one or both persons is over 62 years of age.

Under SB 30, beginning January 1, 2020, domestic partners will no longer be required to be members of the same sex or be required to have one or both partners be over 62 years of age. Because California law confers that same benefits to registered domestic partners that are provided to married spouses, public educational institutions may have more employees who qualify for registered domestic partnership and may seek such benefits in the workplace. For example, the California Paid Sick Leave law in Labor Code sections 245-249 allows an employee to use paid sick leave for the diagnosis, care, or treatment of an existing health condition or preventative care for a family member, including a registered domestic partner. Similarly, the California Family Rights Act ("CFRA") allows an eligible employee to use job-protected leave to care for a registered domestic partner. Public educational institutions should be aware of the change in definition of who may enter into a domestic partnership for purposes of complying with California law and applying agency policies.

*(SB 30 amends Sections 297, 297.1, 298, 298.5, 298.6, 298.7, and 299.2 of the Family Code and repeals Section 299.3 of the Family Code.)*

## EMPLOYEE AND WORKPLACE SAFETY

### *AB 35 – Creates Reporting Requirements And Investigations For The Department Of Public Health Related To Employees With High Lead Levels.*

The California Department of Public Health administers an Occupational Lead Poisoning Prevention Program to prevent and reduce lead poisoning in workplaces across California. As part of the Program, the Department of Public Health tracks blood lead levels in adults and investigates work-related lead poisoning cases in coordination with the Division of Occupational Safety and Health ("Cal/OSHA").

AB 35 adds new requirements for the Occupational Lead Poisoning Prevention Program. The bill requires the Department of Public Health to consider any laboratory report of an employee's blood lead level at or above 20 micrograms per deciliter to be injurious to the health of the employee. AB 35 requires the Department of Public Health to report the case to Cal/OSHA within five business days of receiving the report.

Upon receipt of a report from the Department of Public Health, Cal/OSHA will consider the report to be a complaint that a place of employment is not safe or is injurious to the welfare of an employee. Cal/OSHA will initiate an investigation into the employer or place of employment within three working days. Upon completion of the investigation, any citations or fines the Cal/OSHA imposes will be publicly available.

*(AB 35 amends Section 105185 of the Health and Safety Code and adds Section 147.3 to the Labor Code.)*

### *AB 61 – Allows An Employer Or Coworker To File A Temporary Gun Restraining Order Against An Employee.*

Current law allows a family member and law en-



forcement officer to petition a court to issue a gun violence restraining order against an individual who poses a significant danger by controlling a firearm. A gun violence restraining order prevents the subject of the petition from having custody or control of, owning, possessing, or receiving a firearm or ammunition. A court may issue an ex parte gun violence restraining order if it determines there is a substantial likelihood that the subject of the petition poses a significant danger of causing personal injury to him or herself or another by having a firearm and less restrictive alternatives have either been tried and found to be ineffective or are inadequate for the circumstances.

AB 61 expands the group of individuals who may file a petition to request a gun violence restraining order beyond family members and law enforcement. Beginning September 1, 2020, the following individuals may petition a court to issue a gun violence restraining order for a period between one and five years:

- An immediate family member of the subject of the petition;
- An employer of the subject of the petition;
- A coworker of the subject of the petition, if the coworker has had substantial and regular interactions with the subject for at least one year and has obtained approval of the employer;
- An employee or teacher of a secondary or post-secondary school that the subject has attended in the last six months, if the employee or teacher has obtained approval from a school administrator or school administration staff member with a supervisory role; and
- A law enforcement officer.

The purpose of AB 61 is to allow people who have frequent and substantial interactions with an individual and who may see early warning signs of self-harm or harm to others, to petition for a gun violence restraining order directly with the court.

AB 61 also allows this group of individuals to request a renewal of a gun violence restraining order at any time within three months before the expiration of a gun violence restraining order. After notice and a hearing, a court may renew a gun violence restraining order if the court finds there continues to be a substantial likelihood that the subject of the petition poses a significant danger of causing personal injury to him or herself or another by having a firearm and less restrictive alternatives are inadequate. Beginning September 1, 2020, a court may issue a renewal of a gun violence restraining order for the periods of one to five years.

AB 61 expressly provides that an employer or coworker is not legally mandated or required to file a petition for a gun violence restraining order against an employee. The bill provides that an employer or coworker “may” file a petition for a gun violence restraining order. Public educational institutions should be aware of their ability as “employers” to file such petitions against employees who show signs of posing a significant danger of causing harm by firearm. Public educational institutions also play a role in approving a request from an employee who seeks to file a petition for a gun violence restraining order against one of his or her coworkers. While AB 61 goes into effect January 1, 2020, portions of AB 61 have delayed implementation until September 1, 2020 as noted above.

*(AB 61 amends and adds Sections 18150, 18170, and 18190 of the Penal Code.)*

### ***AB 1804 – Allows Employers To Report Serious Injury, Illness, Or Death To Cal/OSHA Through A New Online System Or By Telephone.***

Employers are currently required to file a complete report of every employee occupational injury or illness with the Department of Industrial Relations or an insurer, who must then immediately file with the California Division of Occupational Safety and Health (“Cal/OSHA”). A report must be filed within five days after the employer obtains knowledge of the injury or illness. Employers are also required

make a report of every serious injury, illness, or death immediately with Cal/OSHA by telephone or email.

While telephone reports are effective in helping Cal/OSHA immediately assess a hazard, the California Legislature has assessed that email reporting does not provide optimum information because employers may neglect to provide meaningful information. Since email reporting can create a delay in Cal/OSHA's response and jeopardize worker health and safety, AB 1804 will phase out the option for employers to report a serious injury, illness, or death by email. AB 1804 will direct employees to report by telephone or through a new online reporting system.

The bill directs Cal/OSHA to create and implement a new online reporting system. The online portal will ideally prompt employers to provide the information that Cal/OSHA specifically needs to assess a hazard in the workplace. Until Cal/OSHA is able to create the online reporting system, employers are permitted to continue to make reports by telephone or email. Once the online reporting system is in place, employers will only be able to make reports through the online reporting system or by telephone.

*(AB 1804 amends Section 6409.1 of the Labor Code.)*

### ***AB 1805 – Redefines “Serious Injury or Illness” For Reporting to Cal/OSHA.***

Employers are required to report certain occupational injuries and illnesses occurring in a place of employment or in connection to employment to the federal Occupational Safety and Health Administration (“OSHA”) and California Division of Occupational Safety and Health (“Cal/OSHA”). AB 1805 revises the definition of “serious injury or illness” for purposes of reporting to Cal/OSHA. The specific changes to the “serious injury or illness” definition are:

- Removal of the requirement that inpatient hospitalizations, except for medical observation

and diagnostic testing hospitalizations, last for at least 24 hours before qualifying as “serious injury or illness”;

- Deletion of the “loss of any member of the body” and the addition of amputation and the loss of an eye to the definition;
- Eliminates the previous exclusion of an injury or illness caused by certain violations of the Penal Code; and
- Clarifies that injuries, illness, or death caused by an accident on a public street or highway that occurred in a construction zone are included.

AB 1805 also defines the definition of “serious exposure” to include exposure of an employee to a hazardous substance when the exposure is in a degree or amount sufficient to create a “realistic possibility” that death or serious physical harm in the future could result from the actual hazard created by the exposure.

The changes to these definitions are intended to conform Cal/OSHA's standards to the federal OSHA regulations on reportable injuries and illnesses.

*(AB 1805 amends Sections 6302 and 6309 of the Labor Code.)*

## **EMPLOYEE BENEFITS**

### ***AB 1554 – Employers Must Notify Employees Of Deadline To Withdraw Flexible Spending Account Funds.***

Many employers offer employees the opportunity to participate in flexible spending accounts often as part of a Section 125 cafeteria plan or other type of flexible benefit plan. Different types of flexible spending accounts include health FSAs, dependent care flexible spending accounts (sometimes known as a dependent care assistance programs or DCAPs), and adoption assistance flexible spend-

ing accounts. Under federal law and regulations, flexible spending accounts are generally subject to a forfeiture rule. The forfeiture rule is a “use it or lose it” rule, whereby employees must seek reimbursement for eligible expenses from their flexible spending account by a certain date or else they forfeit the remaining funds in their accounts. The exact deadline to seek reimbursement varies and is governed by an employers’ flexible spending account structure. Flexible spending accounts commonly allow a “run-out” period, which is the final period after the plan year ends when an employee may submit expenses for reimbursement. Other flexible spending accounts allow grace periods (health FSAs may also have carryover periods), which furthers extends the deadline to withdraw funds.

AB 1554 requires employers to notify employees who participate in a flexible spending account of any deadline to withdraw funds before the end of the plan year. The purpose of AB 1554 is to decrease the amount of flexible spending account funds employees forfeit each year. AB 1554 will clarify to employees the exact deadline by which they must submit reimbursement requests.

AB 1554 requires the notice via two different forms, one of which may be electronic. Employers may notify employees of the withdrawal deadlines by e-mail, telephone communication, text message notification, postage mail notification, or in person. Beginning with the plan year encompassing January 1, 2020, public agencies should prepare to communicate such information by the end of each plan year.

*(AB 1554 adds Section 2810.7 to the Labor Code.)*

***AB 463 – Requires Community College Districts To Provide Materials To New Faculty To Increase Awareness Of The Public Service Loan Forgiveness Program.***

This bill requires the Chancellor of the California Community Colleges to develop materials to in-

crease awareness of the Public Service Loan Forgiveness Program, including a one-page form letter that briefly summarizes the program, a detailed fact sheet describing the program, and a document containing answers to frequently asked questions. The Chancellor’s office shall provide these materials to each community college district for distribution to faculty employees.

A community college district shall provide newly hired faculty with those same materials within 30 days of the employee’s first day of employment by mail, by email, or during an in-person new employee orientation.

A community college district shall annually provide a faculty employee who is enrolled in the Public Service Loan Forgiveness program with notice of renewal and a copy of the employment certification form, with the employer portion of the form already completed.

This bill also provides a community college district shall not unreasonably delay in completing the employer portion of the employment certification form. A district shall, in completing the employer portion, credit a faculty employee with at least 3.35 hours worked for each hour of lecture or classroom time. A district shall, in completing the employer portion credit a faculty employee with non-instructional assignments hour for hour with no adjustment factor.

*(AB 463 amends Section 87489 of the Education Code.)*

## **EMPLOYMENT CLASSIFICATION**

***AB 1051 – Employment Of Temporary Nursing Faculty.***

This bill allows community college districts to employ temporary faculty members serving as full-time clinical nursing faculty or as part-time clinical nursing faculty members for up to 4 semesters or 6

quarters. Previous law allowed this only between July 1, 2007 and December 31, 2015. However, AB 1051 has removed the time limitations.

In addition, AB 1051 requires community college districts to provide data to the Chancellor of the California Community Colleges regarding the number of faculty hired pursuant to this section and the ratio of full-time to part-time faculty for each of the three academic years prior to the hiring of temporary faculty under this provision and for each academic year faculty is hired under this provision. Districts must provide this data no later than June 30 of each year. This provision previously required districts to provide the data by June 30, 2012. AB 1051 removes that date and requires districts provide data by June 30 of each year.

*(AB 1051 amends Section 87482 of the Education Code.)*

## HEALTH FACILITIES

### *SB 322 – Health Facility Employees Have The Right To Discuss Regulatory Violations With A Department Of Public Health Investigator Privately.*

When the Department of Public Health conducts initial or periodic licensing surveys or investigates complaints, the Department speaks to health facility employees and does not turn away any employee who wants to speak with the Department. SB 322 adds a right for a health facility employee or the employee's representative to privately discuss possible regulatory violations or patient safety concerns with the Department of Public Health's investigator during the course of an investigation or inspection.

By allowing these conversations to be private, an employee or representative may hold these discussions outside of the presence of health facility management. According to the bill's author, the purpose of SB 322 is to encourage health facility employees to speak freely and report potentially

dangerous hazards without fear of retaliation. Under current law, a health facility employer cannot discriminate or retaliate against an employee, member of medical staff, health care worker, or patient for presenting a grievance, complaint, or report to the facility or for participating in an investigation related to quality of care, services, or facility conditions.

Any health facility undergoing a survey, inspection, or investigation by the Department of Public Health should be aware of an employee and employee representative's right to speak with the Department investigator privately. The health facility should not insist on having a member of management or other facility employee present in the event an employee requests a private discussion with the investigator.

*(SB 322 amends Section 1278.5 of the Health and Safety Code.)*

## INDEPENDENT CONTRACTORS

### *AB 5 – Codifies The ABC Test For Determining Independent Contractor Status.*

AB 5 codifies the "ABC" test for determining independent contractor status that the California Supreme Court adopted in its 2018 decision, *Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903.

In *Dynamex*, delivery drivers alleged that the Dynamex company misclassified them as independent contractors. The Court established a new test, often referred to as the ABC test, for determining whether an individual works as an independent contractor or as an employee. The Court rejected the longstanding and more flexible multifactor standard established in *S.G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341.

Under the Borello test, the primary consideration for determining whether an individual is an independent contractor or employee is whether the hiring entity had the right to control the manner and means of the work. The test also evaluates nine additional factors including the type of occupation, the length of time for which the services were to be performed, and the method of payment.

Under the ABC test in *Dynamex*, however, the presumption is that the individual is an employee unless the hiring entity demonstrates that all three of the following conditions have been satisfied in order for the individual to qualify as an independent contractor:

- (A) The individual is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract terms and in fact;
- (B) The individual performs work that is outside the usual course of the hiring entity's business; **and**
- (C) The individual is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

AB 5 creates Labor Code section 2750.3, which codifies the ABC test adopted in *Dynamex* and expands its application beyond Industrial Welfare Commission (IWC) wage orders to the general Labor Code and Unemployment Insurance Code. Importantly, there is no express exemption in AB 5 for public educational institutions.

Labor Code section 2750.3 also carves out a number of exemptions for occupations that remain subject to the old, multifactor *Borello* test. These exemptions include: insurance agents; medical professionals such as physicians, dentists, podiatrists, psychologists, and veterinarians; licensed professionals such as attorneys, architects, engineers, private investigators, and accountants;

financial advisers; direct sales salespersons; commercial fisherman; some contracts for professional services for marketing, human resources administrators, travel agents, graphic designers, grant writers, fine artists, freelance writers, photographers and photojournalists, and cosmetologists; licensed real estate agents; "business service providers"; construction contractors; construction trucking services; referral service providers; and motor club third party agents.

Additionally, AB 5 applies this new Labor Code section 2750.3 to Labor Code section 3351, which relates to employment status for Workers' Compensation coverage. This portion of the law will be effective July 1, 2020.

Finally, AB 5 amends Unemployment Insurance Code section 621 to incorporate *Dynamex's* ABC test. This amendment does not reference the exemptions for occupations in Labor Code section 2750.3 that remain subject to the old, multifactor Borello test. Thus, those independent contractors who fall into one of the exemptions in Labor Code section 2750.3 may not be exempt from the provisions of the Unemployment Insurance Code unless the conditions of the ABC test are satisfied.

Because IWC wage orders have limited application on public educational institutions, the *Dynamex* decision similarly has limited application on public agencies. However, AB 5 and Labor Code section 2750.3 now extend the ABC test in *Dynamex* to the general Labor Code and Unemployment Insurance Code. This means that if an individual were an employee of the educational institution under the ABC test, then corresponding Labor Code provisions applicable to public educational institution employees would now apply to the individual, including workers' compensation coverage and paid sick leave benefits. Additionally, if an individual is an employee of a public educational institution under the ABC test, he or she is also now entitled to unemployment benefits under the Unemployment Insurance Code.

Importantly, Labor Code section 2750.3 does not constitute a change of the law, but rather declares the state of the existing law prior to its adoption. Accordingly, public educational institutions should evaluate all independent contractor arrangements under the ABC test and Labor Code section 2750.3, and work with legal counsel to determine whether to reclassify existing independent contractors as employees pursuant to the changes in law from AB 5.

*(AB 5 adds Section 2750.3 to the Labor Code, amends Section 3351 of the Labor Code, and amends Sections 606.5 and 621 of the Unemployment Insurance Code.)*

## LACTATION ACCOMMODATIONS

### *SB 142 – Creates New Lactation Accommodation Requirements.*

Currently, California employers are required to allow an employee to use their break time to express breast milk, and to provide a private location other than a bathroom for such lactation accommodation. Under SB 142, an employer must now provide a private lactation room other than a bathroom that must be in “close proximity to the employee’s workspace” with the following features:

- Is shielded from view and free from intrusion while the employee expresses milk;
- Contain a surface to place a breast pump and personal items;
- Contain a place to sit;
- Have access to electricity or alternative devices (such as extension cords or charging stations) needed to operate an electric or battery-powered breast pump.

An employer may comply with this new law by designating a lactation location that is temporary

due to operational, financial or space limitations so long as such space still meets the above-referenced requirements.

Separately, employers must also provide access to a sink with running water and a refrigerator or other cooling device suitable for storing milk in close proximity to the employee’s workspace. While this requirement to provide a sink and a refrigerator does not necessarily require that they be provided in the lactation room, it is unclear if providing these in a bathroom will satisfy this requirement.

If an employer uses a multipurpose room as a lactation room, such use shall take precedence over other uses but only for the time it is in use for lactation purposes. An employer in a multitenant building or multiemployer worksite may comply with this new law by providing a space shared among multiple employees within the building or worksite if the employer cannot provide a lactation location within the employer’s own workspace. Employers or general contractors that coordinate a multiemployer worksite shall either provide lactation accommodations or provide a safe and secure location for a subcontractor employer to provide lactation accommodation on the worksite, within two business days, upon written request of any subcontractor employer with an employee that requests accommodation.

The only potential exemption to these new requirements is for employers with fewer than fifty (50) employees who can demonstrate that this requirement would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer’s business. An employer who can establish such undue hardship shall make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee’s work area, for the employee to express milk in private.

An employer who fails to provide break time or

adequate lactation accommodations may be fined one hundred dollars (\$100) for each day an employee is denied reasonable break time or adequate space to express milk.

In addition, SB 142 requires that California employers develop and implement a policy regarding lactation accommodation requirements that includes the following:

- A statement about an employee's right to request lactation accommodation;
- The process by which the employee makes the request;
- An employer's obligation to respond to the request; and
- A statement about an employee's right to file a complaint with the Labor Commissioner for any violation of the law.

Employers are required to include the policy in an employee handbook or set of policies that are made available to employees, and distribute the policy to new employees at the time of hire and when an employee makes an inquiry about or requests parental leave. If an employer cannot provide break time or a location that complies with their policy, the employer must provide a written response to the employee.

Because this law goes into effect on January 1, 2020, public educational institutions should conduct an audit at each of their worksites to determine what potential on-site locations can be used for a lactation accommodation, and to begin making contingency plans to address any existing inability to provide such accommodations at a worksite. In addition, agencies need to begin working on drafting a lactation accommodation policy to provide employees in accordance with this new law.

*(SB 142 amends Sections 1030, 1031, and 1033 of and adds Section 1034 to the Labor Code.)*

## LEAVES

### *AB 706 – Revises Requirements For Transfer Of Sick Leave For Academic Employee.*

Current law provides any leave of absence for illness or injury that an academic employee of a community college district is entitled to shall be transferred to the employee's new district as long as the employee worked with the first district for at least one school year and met three conditions.

AB 706 removed the following three conditions from the law:

- The person accepts an academic position in a school district or community college district at any time during the second or any succeeding school year of his or her employment with the first district.
- The person, within the three school years succeeding the school year in which the employment in the first district is terminated, signifies acceptance of his or her election or employment in an academic position in another district.
- The person, prior to the expiration of a period greater than three years during which the employee's reemployment rights are in effect under a local bargaining agreement in the first district, signifies acceptance of his or her election or employment in an academic position in another district.

As a result, an employee's leave entitlement will be transferred to the second district even if the employee does not meet the above listed conditions.

*(AB 706 amends Section 87782 of the Education Code.)*

### *AB 1223 – Requires Employers To Offer Employees Additional Unpaid Organ Donation Leave.*

The State of California and the Regents of the University of California are currently required to grant a leave of absence with pay, not exceeding

30 days in a one-year period, to an employee for organ donation once the employee has exhausted available sick leave. These agencies are required to provide up to five days of an unpaid leave of absence for employees who are donating bone marrow. AB 1223 extends the amount of organ donation leave for employees of the State of California and Regents of the University of California. The bill requires these employers to grant an additional amount of unpaid leave, not exceeding an additional 30 business days in a one-year period, to an employee for the purpose of organ donation. Employees must exhaust all sick leave prior to receiving the additional amount to unpaid leave for organ donation.

AB 1223 does not change the requirement that an employee must provide his or her employer with written verification that the employee is an organ or bone marrow donor and there is a medical necessity for the donation. The leave of absence is not a break in the employee's continuous service for purposes of salary adjustments, sick leave, vacation, annual leave, and seniority.

AB 1223 also prohibits life or disability insurance policies, other than health insurance or long-term care insurance, from discriminating against an organ donor.

*(Amends Sections 89519.5 and 92611.5 of the Education Code, to amend Section 19991.11 of the Government Code, to add Sections 10110.8 and 10233.8 to the Insurance Code, and to amend Section 1510 of the Labor Code, relating to organ donation).*

## PAYROLL/COMPENSATION

***SB 698 – Requires The Regents Of The University Of California To Pay Employees On A Regular Payday.***

Existing law requires employers to pay employees twice per calendar month on days designated in advance as regular paydays, though the Labor Code allows employers to pay executive, ad-

ministrative, or professional employees once per month. In SB 698, the Legislature declared that the University of California has experienced errors in its new payroll system, which has led to delayed, missed, or smaller-than-expected paychecks for its employees. As a result, SB 698 provides that the University of California must pay all employees directly employed by them on a regular payday. For employees on a monthly payment schedule, payment is due no later than five days after the close of the monthly payroll period. For employees on a more frequent payday schedule, payment is due according to the pay schedule announced by the University of California in advance. SB 698 does not prohibit the University of California from allowing its employees to distribute their pay so that they will receive paychecks throughout the year, rather than during pay periods worked only.

*(SB 698 amends Section 204 of the Labor Code.)*

## PROBATIONARY PERIOD

***AB 1353 – Reduces Maximum Probationary Period For School District Classified Employees To Six Months Or 130 Days of Service.***

This bill changes the maximum length of a probationary period for employees in the classified service from one year to six months or 130 days of paid service. The changes made by this bill shall not apply to conflicting provisions of a collective bargaining agreement entered into by a public school employer before January 1, 2010. The changes shall apply when the agreement expires or the district and exclusive representative renew it.

This bill applies only to classified employees of a school district. This does not apply to classified employees of a community college district.

*(AB 1353 amends Section 45113 of the Education Code.)*



## PUBLIC SAFETY

### *AB 392 – Modifies Standards For Use Of Deadly Force By Peace Officer.*

AB 392 is a police use-of-force bill that redefines the circumstances under which the use of lethal force by a peace officer is considered justifiable. This bill also applies to campus police officers. The law is intended to encourage law enforcement to increasingly rely on alternative methods such as less-lethal force or de-escalation techniques.

Under the new law, lethal force by a peace officer is only justifiable “*when necessary in defense of human life.*” Specifically, AB 392 provides that a peace officer is justified in using deadly force only when the officer reasonably believes, based on the totality of the circumstances, that deadly force is necessary for one of two reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person, or
- To apprehend a fleeing felon if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

The Legislature did not designate AB 392 as emergency legislation, so the change in the law will take effect on January 1, 2020. Before that date, public educational institutions with campus police should review their existing use-of-force policies to verify whether their policy is consistent with the law, and to identify areas that may need revision. A separate bill – SB 230 (noted below) – requires revisions to use of force policies to meet certain standards by January 1, 2021, and therefore compliments AB 392.

The Court of Appeal recently reaffirmed, in *San Francisco Police Officers’ Association v. San Francisco Police Commission* (2018) 27 Cal.App.5th 676, that use-of-force policies are primarily a matter of public safety and fall outside the scope of

representation defined under the Meyers-Milias-Brown Act. This same reasoning is likely to be extended to Educational Employment Relations Act and the Higher Education Employer Relations Act. Therefore, in the event that a public educational institution’s current policies need to be updated to ensure compliance with changes in the law, the institution is not required to “meet and confer” with the campus peace officers’ recognized employee organization before making the necessary policy revisions. Even so, public educational institutions considering a change in policy should give advance notice to the employee organization and be prepared to meet and confer over any *negotiable impacts or effects* of the policy change identified by the employee organization.

Going forward, public educational institutions should also ensure that future criminal and administrative investigations of use of force incidents follow the revised standards set out by the new law and any change in policy. Public educational institutions should consult with their trusted legal counsel regarding how to bring their policies and practices into line with the new laws, as well as to assist with navigating the requirements of California labor law.

*(AB 392 amends Sections 196 and 835a of the Penal Code.)*

### *SB 230 – Requires Law Enforcement Agencies To Maintain Use Of Force Policies.*

SB 230 requires law enforcement agencies, including campus police, to maintain use of force policies no later than January 1, 2021. The bill specifically describes 20 criteria each law enforcement policy must include. These requirements include, but are not limited to, guidelines on the use of force, utilizing de-escalation techniques and other alternatives to force when feasible, specific guidelines for the application of deadly force, an obligation to report potential excessive force, an obligation for an officer to intercede

when observing another officer using force that is clearly beyond that which is necessary, training standards, factors for evaluating and reviewing all use of force incidents, and several other criteria. SB 230 also requires that each law enforcement agency make its policy accessible to the public.

As referenced above in our analysis regarding AB 392, we believe any meet and confer obligations related to changes to a use of force policy would be related to any negotiable impacts or effects. As a result, public educational institutions with campus police should give advance notice of any changes to a use of force policy to the employee organization and be prepared to meet and confer over any *negotiable impacts or effects* of the policy change identified by the employee organization.

As part of SB 230, the Legislature provided that the intent of the bill is to establish the minimum standard for policies and reporting procedures for law enforcement agencies' use of force. The Legislature also declared that an agency's use of force policy and training may be introduced as evidence in proceedings involving an officer's use of force. The policies and training may be considered to determine whether the officer acted reasonably but will not impose a legal duty on the officer to act in accordance with such policies and training.

SB 230 also requires the Commission on Peace Officer Standards and Training ("POST") to implement a course on the use of force and develop uniform, minimum guidelines for use of force for law enforcement agencies, including campus police, to adopt.

In preparing to adopt a use of force policy that complies with SB 230 by January 1, 2021, law enforcement agencies, including public educational institutions with campus police, should review the 20 requirements set forth in Government Code section 7286 and determine whether they need to adopt new policies or amend current policies on the use of force.

This bill does not specifically state that it applies to public educational institutions that maintain

police departments. However, SB 230 broadly defines a "law enforcement officer" who is required to follow SB 230's requirements to include "any peace officer of a local police or sheriff's department or the California Highway Patrol, or of any other law enforcement agency authorized by law to use force to effectuate an arrest." Due to this broad definition, SB 230 likely applies to law enforcement officers of any community college district's police force.

*(SB 230 adds Chapter 17.4, commencing with Section 7286, to Division 7 of Title 1 of the Government Code and adds Section 13519.10 of the Penal Code.)*

### ***AB 1600 – Shortens Timeframe For Requesting Peace Officer Personnel Records In Criminal Actions And Makes Supervisory Officer Records Subject To Disclosure In Limited Situations.***

When a party seeks discovery or disclosure of peace or custodial officer personnel records, the party is required to file a motion and provide written notice to the government agency that has custody and control of the records ("*Pitchess Motion*"). Peace or custodial officer personnel records includes campus police officer records. AB 1600 shortens the timeframe for providing written notice for the records in criminal actions from 16 court days to 10 court days before the hearing for discovery. However, AB 1600 does not change the current timeframe for a party to issue written notice in civil actions, which remains 16 courts days in accordance with Code of Civil Procedure section 1005.

In addition, AB 1600, requires a public agency, including a public educational institution with campus police, who receives a *Pitchess Motion* to immediately notify the individual whose records are sought.

After a party files a motion seeking peace or custodial office personnel records in a criminal action and provides written notice to the governmental agency, AB 1600 requires all opposition motions to

be filed at least five court days before the hearing and all reply papers be filed at least two court days before the hearing.

AB 1600 also makes a supervisory officer's personnel records subject to disclosure in limited circumstances. Under existing law, personnel records of supervisory officers are not subject to disclosure if the supervisory officer was not present during an arrest or had no contact with the party seeking disclosure of the records, or was not present at the time the conduct was alleged to have occurred within a jail facility. AB 1600 creates an exception that permits the disclosure of a supervisory officer's personnel records if the supervisory officer had direct oversight of a peace or custodial officer and issued command directives or had command influence over the circumstances at issue and the officer under supervision was present during the arrest, had contact with the party seeking disclosure, or was present when the conduct at issue was alleged to have occurred at a jail facility.

The purpose of AB 1600 is to align the timeline for bringing *Pitchess* Motions seeking confidential peace officer personnel records with the timelines for other types of discovery in criminal proceedings. As a result, employers will have an expedited timeframe to respond to criminal motions for peace or custodial personnel records. Within as little as 11 court days before a discovery hearing, employers will have to notify the officer whose records are sought, diligently search for the records sought, and raise any written objections to the motion.

*(AB 1660 amends Section 1005 of the Code of Civil Procedure and amends Sections 1043 and 1047 of the Evidence Code.)*

### *SB 781 – Clarifies The Release Of Employment Information For Background Checks For Applicants Of Non-Sworn Positions At Law Enforcement Agencies.*

Government Code section 1031.1 requires an employer to disclose employment information about a current or former employee to a law enforcement agency that has requested such information for the employee's background investigation for application of employment. Section 1031.1 applies to applicants who are not current police officers and applicants applying for a position other than a sworn police officer within a law enforcement agency.

SB 781 makes clarifying changes to Section 1031.1 about the disclosure of employment information for applicants who are applying for non-sworn positions at law enforcement agencies. Some provisions in the existing law only reference police officer applicants, omitting any information about applicants for non-sworn law enforcement positions.

The bill clarifies that "employment information" is information relevant to the performance of either a police officer applicant or other law enforcement agency applicant, which includes applicants campus police officer positions and for non-sworn positions. SB 781 also clarifies that an initial requesting law enforcement agency may disclose employment information to another authorized law enforcement agency that is also conducting a background investigation into either a police officer applicant or other law enforcement agency applicant.

As an omnibus bill that covers a variety of technical or minor changes to the law, SB 781 makes other changes to the law that are not directly related to public educational institution employment.

*(SB 781 amends Section 4830.5 of the Business and Professions Code, amends Section 1208.5 of the Code of Civil Procedure, amends Section 30652 of the Food*

*and Agricultural Code, amends Section 1031.1 of the Government Code, amends Section 25988 of the Health and Safety Code, amends Sections 136.2, 286.5, 993, 1000.7, 1170.05, 2604, and 29805 of the Penal Code, repeals Section 597f of the Penal Code, and amends Section 827 of the Welfare and Institutions Code.)*

***SB 273 – Increases Training Requirements For Peace Officers, Including Peace Officers Of The University Of California Police Department And The California State University Police Departments Regarding Domestic Violence.***

SB 273 adds to and revises required training for law enforcement officers regarding domestic violence matters. SB 273 applies to officers of the University of California Police Department and the California State University Police Departments.

Previous law required that agencies train officers on techniques on handling incidents of domestic violence that minimize the injury to the officer and that promote the safety of the victim. SB 273 adds specific requirements for officer training in this area, including but not limited to:

- Methods for ensuring victim interviews occur in a venue separate from the alleged perpetrator and with appropriate sound barriers to prevent the conversation from being overheard;
- Questions for the victim, including but not limited to:
  - Whether the victim would like a follow up visit to provide needed support or resources; or
  - Whether the victim would like information on obtaining a gun violence restraining order and a protective order pursuant to Family Code section 6218.

SB 273 also adds the following training requirements for officers with respect to domestic vio-

lence to existing requirements:

- A verbal review of the resources available for victims outlined on the written notice provided pursuant to Penal Code section 13701.
- Criminal conduct that may be related to domestic violence including, but not limited to, any of the following:
  - Coercion for purposes of committing domestic violence or impeding the investigation or prosecution of domestic violence;
  - False imprisonment;
  - Extortion;
  - Identity theft, impersonation through an internet website or other electronic means, false personation, receiving money or property as a result of false personation, and mail theft;
  - Stalking, including by telephone or electronic communication; and
  - Nonconsensual pornography.

SB 273 additionally increases the statute of limitations for domestic violence to five years.

*(SB 273 amends Section 13519 of the Penal Code.)*

***SB 390 – Requires School Security Officers And Guards Who Work Less Than 20 Hours Per Week To Receive The Same School Training As Full-Time Officers And Guards.***

Existing law requires every security guard working more than 20 hours per week on a public school or community college district campus pursuant to a contract with a private licensed security agency, to complete a course of training offered by the Bureau of Security and Investigative Services of the Department of Consumer Affairs. This bill requires all security guards, even guards who work less than 20 hours per week, to complete the latest training developed by the Department of

Consumer Affairs. This bill also specifies that local educational agencies must provide the trainings to all security guards during their regular work hours, unless otherwise negotiated and mutually agreed upon with the employees' exclusive representative.

*(SB 390 amends Section 7583.45 of the Business and Professions Code, Sections 38001.5 and 72330.5 of the Education Code.)*

## RETIREMENT

### CALPERS

#### ***AB 672 – CalPERS Disability Retiree Restrictions On Performing Work As A Retired Annuitant Without Reinstatement.***

The Public Employees' Retirement Law and California Public Employees' Pension Reform Act of 2013 establish limitations on when a person who has retired due to a disability may perform work for a CalPERS agency as a retired annuitant but without reinstatement into the CalPERS retirement system. AB 672's purpose is to eliminate confusion about the type of work a disability retiree can perform without being reinstated into the CalPERS system and to prohibit disability retirees from performing duties similar to the duties they were restricted from performing as part of their disability retirement.

The bill clarifies that an employer in the CalPERS system shall not employ a disability retiree as a retired annuitant into: (1) the position from which the person retired; or (2) a position that includes duties or activities that the person was previously restricted from performing at the time of his or her retirement. An employer cannot employ the disability retiree into either of these types of positions as a retired annuitant without reinstatement from retirement.

AB 672 also adds a requirement that if an employer employs a disability retiree as a retired

annuitant without reinstatement, the employer must provide the CalPERS Board with information about the nature of the employment and the duties and activities of the position.

*(AB 672 adds Section 21233 to the Government Code.)*

#### ***SB 782 – Provides CalPERS Credit For Unused Sick Leave For School Members, School Safety Members, Or Local Members Employed By A Contracting Agency That Is A School District, County Office Of Education, Or Community College District.***

Existing law provides that CalPERS shall credit, state, school and school safety members with 0.004 years of service for each unused day of sick leave the employee has as certified to CalPERS by the employer. SB 782 revises the statutory scheme so that these rights for school and school safety members are set forth in a separate section of the Government Code. SB 782 also defines sick leave for these purposes as any sick leave granted by the employer and any sick leave transferred to the employer pursuant to the Education Code.

SB 782 also provides that a contracting agency that is a school district, county office of education, or community college district, which elects to contract for unused sick leave conversion or that participates in a risk pool, is subject to the provisions of the bill.

*(SB 782 adds Section 20963.5 to the Government Code.)*

### CALSTRS

#### ***AB 644 – Changes The CalSTRS Definition Of Compensation Earnable.***

AB 644 defines "annualized pay rate" for purposes of CalSTRS retirement as the salary or wages a person could earn during a school term for an assignment if creditable service was performed for

that assignment on a full-time basis. Additionally, this bill provides that if creditable service is not performed on a full-time basis because a member is performing activities related to the outgrowth of an instructional guidance program, the annualized pay rate shall be determined as if the salary or wages have been earned at the lowest annualized pay rate of other creditable service activities performed by the member for the same employer during the same school year.

This bill changed the definition of “compensation earnable” for purposes of CalSTRS to:

- “(a)(1) the average annualized pay rate, which shall be determined as the quotient obtained when salary or wages, as described in Section 22119.2 or 22119.3, paid in a school year is divided by the service credited for that school year. The quotient shall not exceed the member’s highest annualized pay rate for that school year.
- (2) Remuneration that is paid in addition to salary or wages, as described in Section 22119.2 or 22119.3, for the school year described in paragraph (1).
- (b) If a member earns creditable compensation at multiple annualized pay rates during a school year and service credited at the highest annualized pay rate is at least 0.900 of a year, compensation earnable shall be determined as if all service credited for that year had been earned at the highest annualized pay rate.
- (c) Compensation earnable excludes creditable compensation for which contributions are credited by the system to the Defined Benefit Supplement Program.”

This bill gives the CalSTRS board the authority to establish and implement factors necessary to calculate the benefits payable to an eligible member employed by a community college district. These may include, but are not limited to, base

hours, actual earnings, and annualized pay rates. It also authorizes community college boards to review calculations. The board may recalculate the allowance payable using additional factors if the board determines the calculation was inaccurate or applied incorrectly. If the board determines an employer failed to identify part-time service performed, the board shall consider that part-time service to be performed as a part-time lecture assignment.

Additionally, AB 644 repealed sections of the Education Code that allowed members to transfer membership to CalPERS.

*(AB 644 amends Sections 22104.8, 22115, 22119.2, 22119.3, 22121, 22138.5, 22708, 22710, 23102, 23301, 24209, 24209.3, 24211, 24309, 25024, 27201, and 27202. This bill also adds Section 24203.8 to the Education Code and repeals Sections 22510-22514 of the Education Code.)*

### ***AB 1452 – Makes Changes To CalSTRS Defined Benefit Program Provisions.***

AB 1452 provides that any person who is not already a member of the Defined Benefit Program who is employed to provide full-time creditable service to school districts and county offices of education must become a member of CalSTRS on the first day of employment unless excluded from membership by Education Code Section 22601. Similarly, employees of community colleges who are not already members of the Defined Benefit Program who are employed to provide full-time creditable service must become members of CalSTRS on the first day of employment unless excluded from membership by Education Code Sections 22601 or 22601.5

AB 1452 provides that persons that are not members of the Defined Benefit Program that perform creditable service on a part time basis for a school district or county office of education shall become a member on the first day of employment. A part time basis is fifty percent or more of the time the

employer requires for a full-time position.

Additionally, it provides that creditable service in more than one position shall not be aggregated for the purpose of determining mandatory membership.

This bill provides that school districts and county offices of education must enroll substitute employees in the Defined Benefit Program on their 100th completed day of service unless the creditable service is performed under the Cash Balance Benefit Program. If an employer does not provide a Cash Balance Benefit Program, then substitute employees that perform less than 100 complete days of creditable service are excluded from mandatory membership under the Defined Benefit Program. Service shall be subject to the Cash Balance Benefit Program if the employer provides one.

This bill also provides that part-time hourly employees shall be enrolled in the Defined Benefit program after they have performed sixty or more hours of creditable service. Part time daily employees shall become members after performing ten or more days of creditable service unless the creditable service is performed under the Cash Balance Benefit Program. Employees that work less than sixty hours or ten days are excluded from mandatory membership in the Defined Benefit Program. If the employer has a Cash Balance Benefit Program, the service shall be creditable under that program.

This bill excludes the following employees from mandatory participation in the Defined Benefit Program if they were not already a member of the Program:

- Employees who perform creditable service on a part-time basis for less than 50 percent of full-time;
- Employees who perform creditable service on a temporary basis pursuant to Education Code section 87478 (current law excludes employees serving under Education Code Sec-

tions 87474, 87480, 87481, 87482, or 87482.5). This includes temporary employees employed to replace a regular employee absent from service or temporary employees employed after September 1 where a district is unable to locate a qualified regular employee.

This bill excludes temporary employees of a community college district from mandatory membership in the Defined Benefit Program if they are subject to a Cash Balance Benefit Program.

This bill provides that any person that is not already a member of the Defined Benefit Program and who is employed to perform creditable service under the Cash Balance Benefit Program shall become a participant in that program if they are not excluded from participation and they perform either part time service or temporary service. Employees may elect coverage by the Social Security Act or an alternative retirement plan instead of the Cash Balance Benefit Plan. Employees must make the election within 60 days.

An employee that elects to participate in the Cash Balance Benefit Program may subsequently elect that creditable service be subject to coverage by the Defined Benefit Program instead of the Cash Balance Benefit Program. The election must be made in writing and received by system headquarters within sixty days.

A person who performs trustee service can elect to participate in the Cash Benefit Balance Program for that service. The election shall be irrevocable, in writing, and received by system headquarters within 60 days.

*(AB 1452 amends Section 22501-22504, 22601.5, 22602, 22604, 26400, 26401, and 26403 of the Education Code.)*

## SETTLEMENT AGREEMENTS

### *AB 749 – Prohibits Settlement Agreement Term Restricting Employees From Working For Employer Or Being Rehired By The Employer In The Future.*

AB 749 prohibits settlement agreements from containing a provision that restricts an employee from obtaining future employment with the employer if that employee has filed a claim or civil action against the employer. These provisions are commonly referred to as “no rehire” provisions since they require that the employee or former employee not seek re-employment with the employer. If an employee files a claim against the employer in court, before an administrative agency, in an alternative dispute resolution forum, or under the employer’s internal complaint process, any settlement agreement to resolve the dispute cannot contain a “no rehire” provision. AB 749 also prohibits “no rehire” provisions that restrict the employee from obtaining future employment with a division, affiliate, or contractor of the employer.

The bill does not prohibit an employer and employee from entering into an agreement to end a current employment relationship. Rather, AB 749 restricts agreements for not rehiring former employees in the future. AB 749 does provide an exception permitting “no rehire” provisions if the employer has made a good faith determination that the employee engaged in sexual harassment or sexual assault. Furthermore, nothing in AB 749 requires an employer to continue to employ or rehire a person if there is a legitimate, nondiscriminatory, and non-retaliatory reason for terminating the employment relationship or refusing to rehire the person.

Public educational institutions sometimes settle claims filed by employees against the agency and include “no rehire” provisions requiring the former employee not to seek future employment from the agency. As a result of AB 749, public educational institutions should stop including any such provisions in their settlement agreements to

resolve claims filed by employees. Public educational institutions need to ensure any agreements to settle claims or civil actions filed by employees do not contain a “no rehire” provision on or after January 1, 2020. After that date, any provision in a settlement agreement that contains a “no rehire” term will be void as a matter of law and against public policy.

*(AB 749 adds Chapter 3.6, commencing with Section 1002.5, to Title 14 of Part 2 of the Code of Civil Procedure.)*

## WORKERS’ COMPENSATION

### *SB 542 – Presumes PTSD Injury Qualifies For Workers’ Compensation For Police Officers And Firefighters.*

Workers injured in the course of employment are generally entitled to receive workers’ compensation benefits. The law currently establishes a series of occupational injuries for police and safety officers that are presumed to qualify them for workers’ compensation, including heart disease, hernias, pneumonia, cancer, meningitis, tuberculosis, and bio-chemical illness.

In recognizing the stressful nature of firefighting and law enforcement, the Legislature passed SB 542 to expand the definition of “injury” for workers’ compensation purposes to include post-traumatic stress disorder (“PTSD”). Under the bill, a PTSD injury will be presumed to arise out of and in the course of employment if it develops or manifests itself during the worker’s service to a fire or law enforcement department. The Workers’ Compensation Appeals Board (“WCAB”) is bound by the presumption unless presented with controverted evidence to dispute the presumption. Workers’ compensation awarded for such injuries will include full hospital, surgical, medical treatment, disability indemnity, and death benefits.

SB 542 will make it easier for police officers and



firefighters to receive workers' compensation benefits for PTSD. SB 542's rebuttable presumption is an easier standard to meet than the current standard for receiving workers' compensation benefits for other types of mental disorders, which requires the worker to demonstrate that actual events of employment were the predominant cause of the psychiatric injury by a preponderance of the evidence.

SB 542 applies to police officers and firefighters who have performed at least six months of service for their department including a campus police department, although the six months does not need to be continuous. SB 542's rebuttable presumption will be extended to former police officers and firefighters after the last day of work for a period of three months for each full year of requisite service, up to a 60-month period.

The effective timeframe for injuries under SB 542 is limited. The bill applies prospectively only to injuries occurring on or after January 1, 2020. In addition, this law will remain in effect only until January 1, 2025, after which the law will sunset and be repealed unless extended further by the Legislature.

*(SB 542 adds Section 3212.15 to the Labor Code.)*

## **STUDENTS - BILLS SPECIFIC TO K-12 PUPILS**

### **ADMINISTRATION OF MEDICATION**

#### ***AB 711 – Requires Schools To Update Information Related To Updated Legal Name Or Gender.***

According to AB 711, upon receipt of government-issued documentation demonstrating that a former pupil's name legal name or gender has been changed, school districts, county offices

of education, and charter schools to update the school records of the former pupil to include the updated legal name or gender. The school district, county office of education, or charter school must update records, including, but not limited to, a transcript, a high school diploma, a high school equivalency certificate, or other similar documents. The school district, county office of education, or charter school need not modify records the former pupil has not requested for modification or reissuance.

Qualifying documentation demonstrating a legal change to a former pupil's legal name or gender includes, but is not limited to a driver's license, birth certificate, passport, social security card, or court order. Former pupils who are not able to provide this required government-issued documentation may request a gender or name change in their pupil records through the process set forth in Education Code section 49070 regarding challenging the content of pupil records (which AB 711 also amends, as described below). The school must add a new document to the pupil's file indicating the date of the request, the reissued documents, the type of documentation provided to prove the change, the name of the staff person that completed the request, and the current and former names/gender.

A parent or guardian may also request a correction to a pupil's information. After a change made at the request of a parent, the pupil's file must include a document with the date of the request, the date of the correction, a list of the requested records to be corrected, any documentation provided by the parent or guardian to support the change, the name of the employee that completed the request, and the corrections that were made. The district must maintain this document indefinitely in a confidential manner.

*(AB 711 adds Section 49062.5 to the Education Code and amends Section 49070 of the Education Code.)*

***AB 743 – Provides Immunity For School Employees Related To Self-Administered Asthma Medication.***

Current law allows pupils to carry a self-administered inhaled asthma medication if the school has received designated information from a physician or surgeon. AB 743 provides that schools nurses or other school personnel will not be subject to professional review, civil action, or criminal prosecution for their acts or omissions relating to pupil self-administering inhaled asthma medication. A school district shall also not be subject to civil liability. AB 743 also provides that a school district must accept the written statement from a physician or surgeon who is contracted with a health plan licensed pursuant to Health and Safety Code Section 1351.2 and the written statement must be provided in both English and Spanish and include the name and contact information for the physician or surgeon.

*(AB 743 amends Section 49423.1 of the Education Code)*

***SB 223 – Allows School Districts, County Boards Of Education, And Charter Schools To Adopt A Policy To Allow A Parent Or Guardian To Administer Medicinal Cannabis To A Child At A Schoolsite.***

SB 223, known as Jojo’s Act, allows a governing board of a school district, a county board of education, or the governing body of a charter school maintaining kindergarten or any of grades 1 through 12 to adopt a policy that allows a parent or guardian of a pupil to possess and administer medicinal cannabis at a school site to a pupil who is a qualified patient for purposes of California’s Compassionate Use Act. The board or governing body must adopt the policy at a regularly scheduled meeting. This bill does not require any school district, county office of education, or charter school to adopt the policy. The policy is discretionary.

If a board or governing body adopts the policy permitted by SB 223, the policy must contain all of the following provisions:

- The parent or guardian shall not administer the medicinal cannabis in a manner that disrupts the educational environment or exposes other pupils;
- After the parent or guardian administers the medicinal cannabis, the parent or guardian shall remove any remaining medicinal cannabis from the school site;
- The parent or guardian shall sign in at the schoolsite before administering the medicinal cannabis; and
- Before administering the medicinal cannabis, the parent or guardian shall provide an employee of the school a valid written medical recommendation for medicinal cannabis for the pupil that the school will keep on file

School districts shall treat pupil records collected in accordance with the policy allowing the administration of medicinal cannabis at a school site as medical records and subject to all state and federal laws that govern the confidentiality of medical records.

A board or governing body that adopts a policy pursuant to SB 223 may amend or rescind the policy at a regularly scheduled meeting for any reason, including, but not limited to, if the board has lost federal funding because of the policy.

A board or governing body that adopts a policy pursuant to SB 223 may amend or rescind the policy at a special meeting in compliance with the Brown Act if both of the following conditions are met: (1) exigent circumstances necessitate an immediate change to the policy; and (2) at the special meeting, the board or governing body will address the intent to amend or rescind the policy.

Nothing in SB 223 requires an employee of a school district, county office of education, or char-

ter school to administer medical cannabis.

*(SB 223 adds Section 49414.1 to the Education Code.)*

## BULLYING PREVENTION

### *AB 34 – Requires Bullying Prevention Information To Be Accessible On School District, Charter School, County Office of Education, And State Special School Websites.*

Beginning in the 2020-2021 academic year, this bill requires a county office of education, school district, state special school, or charter school to include in a prominent location on its website in a manner that is easily accessible, the information related to the School's suicide policy, Title IX, discrimination and harassment, hate violence, and bullying. The required information is:

- The local education agency's policy on pupil suicide prevention in grades 7 to 12, inclusive, adopted pursuant to Section 215.
- The local education agency's policy on pupil suicide prevention in kindergarten and grades 1 to 6, inclusive, adopted pursuant to Section 215, including reference to the age appropriateness of that policy.
- The definition of discrimination and harassment based on sex as described in Section 230. This shall include the rights set forth in Section 221.8.
- The Title IX information included on a local education agency's internet website pursuant to Section 221.61.
- A link to the Title IX information included on the department's internet website pursuant to Section 221.6.
- The local education agency's written policy on sexual harassment, as it pertains to pupils, prepared pursuant to Section 231.5.
- The local education agency's policy, if it ex-

ists, on preventing and responding to hate violence as described in Section 233.

- The local education agency's anti-discrimination, anti-harassment, anti-intimidation, and anti-bullying policies as described in Section 234.1.
- The local education agency's anti-cyberbullying procedures adopted pursuant to Section 234.4.
- A section on social media bullying that includes all of the following references to possible forums for social media bullying:
  - Internet websites with free registration and ease of registration.
  - Internet websites offering peer-to-peer instant messaging.
  - Internet websites offering comment forums or sections.
  - Internet websites offering image or video posting platforms.
  - A link to statewide resources, including community-based organizations, compiled by the department pursuant to Section 234.5.
  - Any additional information a local education agency deems important for preventing bullying and harassment.

*(AB 34 adds Section 234.6 to the Education Code.)*

### *AB 1127 – Transfers For Bullied Pupils.*

This bill provides that a school district of residence shall approve an intradistrict transfer request for victim of the act of bullying unless the requested school is at maximum capacity. If the requested school is at maximum capacity, the district shall accept an intradistrict transfer request for a different school in the school district. If the school district of residence has only one school offering the grade level of the bullied pupil and

there is no option for a transfer, the bullied pupil may apply for an interdistrict transfer.

This bill also provides a school district of proposed enrollment that elects to accept an interdistrict transfer shall accept all pupils who apply to transfer until the district is at maximum capacity. Pupils that are admitted shall be selected through an unbiased process that prohibits consideration of whether a pupil should be enrolled based on academic or athletic performance, physical condition, proficiency in English, family income, or any of the individual characteristics, including, but not limited to, race or ethnicity, gender, gender identity, gender expression, and immigration status.

Upon request of the parent or guardian on behalf of the pupil eligible for transfer pursuant to AB 1127, the school district of enrollment must provide transportation assistance to the pupil if the pupil is eligible for free or reduced-price meals. A school district of residence may provide transportation assistance to any pupil admitted under this subdivision.

The bill defines a “victim of an act of bullying” as a pupil who has been determined to have been a victim of bullying by an investigation pursuant to the complaint process required by Education Code section 234.1 and the bullying was committed by any pupil in the school district of residence, and the parent of the pupil has filed a written complaint regarding the bullying.

*(AB 1127 amends Section 46600 of the Education Code.)*

## DISCIPLINE

### *AB 272 – Allows School Districts To Restrict Smartphone Use.*

Existing law authorizes the governing board of a school district to regulate possession of an

electronic signaling device. This bill allows the governing body of a school district, county office of education, or charter school to adopt a policy to limit smartphone use. The policy can limit use on school sites and when pupils are under the supervision of an employee. However, the policy cannot prohibit pupils from smartphone use in cases of emergency (or the perceived threat of emergency), when a doctor determines the possession of the smartphone is necessary for the health or wellbeing of the pupil, or when the possession of a smartphone is required by a pupil’s individualized education program.

*(AB 272 adds Section 48901.7 of the Education Code.)*

### *AB 982 – Requires Teachers To Provide Assigned Homework For Suspended Pupils.*

This bill requires teachers of a school district to provide the assigned homework to suspended pupils at the pupil or their guardian’s request. If the pupil turns in the assignment when they return to school or in the originally prescribed timeframe and the assignment is not graded by before the end of the term, then the assignment shall not be included in the pupil’s grade calculation.

*(AB 982 adds Section 47606.2 and Section 48913.5 to the Education Code.)*

### *SB 419 – Revises Provisions Relating to Discipline In Grades 1-12 To Provide Teachers And School Administrators With The Means To Foster Safe And Supportive Learning Environments; Expands The Prohibition On Suspension For Willful Disruption To Grades 1 To 5 And Grades 6 To 8.*

Existing law provides that a school district shall not suspend pupils in kindergarten or grades 1 to 3 shall for any of the grounds set forth in Education Code section 48900, subdivision (k) (willful disruption) and that school districts shall not expel any student in kindergarten or grades 1 to 12 for the same acts. SB 419 provides that this provision

will become inoperative on July 1, 2020.

SB 419 provides that, effective July 1, 2020, school districts shall not suspend pupils enrolled in kindergarten or grades 1 to 5 for any of the grounds set forth in Education Code section 48900, subdivision (k) (willful disruption). In addition, between July 1, 202 and July 1, 2025, school districts shall not suspend pupils enrolled in grades 6 to 8 for these grounds. SB 419 also maintains the prohibition on expelling any student in kindergarten or grades 1 to 12 based on the same grounds.

Existing law allowed a superintendent or principal, in his or her discretion, to provide alternatives to suspension that are age appropriate and designed to address and correct the pupil's specific misbehavior. SB 419 continues to provide that a superintendent or principal is encouraged to provide alternatives to suspension or expulsion that are age appropriate and designed to address the pupil's specific behavior. However, SB 419 encourages the superintendent or principal to also use a research-based framework with strategies that improve behavioral and academic outcomes to determine the alternatives to suspension or expulsion.

SB 419 states it is the intent of the legislature that school districts may use the "Multi-Tiered System of Supports" to help students gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community. The Multi-Tiered System of Supports includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and supports.

SB 419 prohibits a charter school from suspending a pupil in kindergarten or grades 1 to 5 based on having disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or

other school personnel engaged in the performance of their duties. In addition, the bill prohibits charter schools from expelling a pupil in grades kindergarten and 1 to 12 for these acts. From the operative date of the statute until July 1, 2025, a charter school may not suspend a student in grades 6 to 8 based on the pupils commission of one of the above-described acts.

*(SB 419 amends Section 48900 of the Education Code and adds Section 48901.1 to the Education Code.)*

## DISCRIMINATION/CULTURAL SENSITIVITY

### *AB 493 – Encourages School Districts, County Offices Of Education, And Charter Schools To Use State Department Of Education Resources To Provide Training To Employees Regarding LGBTQ Pupils.*

This bill provides that school districts, county offices of education, and charter schools are encouraged to use resources developed by the State Department of Education to provide training at least once every 2 years to employees that serve pupils in grades 7 to 12, on school and community resources for the support of lesbian, gay, bisexual, transgender, queer, and questioning ("LGBTQ") pupils.

School resources included but are not limited to:

- Peer support or affinity clubs and organizations.
- Safe spaces for LGBTQ pupils.
- Antibullying and harassment policies and related complaint procedures.
- Counseling services.
- School staff who have received antibias or other training aimed at supporting LGBTQ youth.
- Health and other curriculum materials that are inclusive of, and relevant to, LGBTQ youth.

- Suicide prevention policies and related procedures.
- Policies relating to use of school facilities, including, but not limited to, bathrooms and locker rooms.
- Policies and procedures to protect the privacy of LGBTQ pupils.

*(AB 493 adds Section 218 to the Education Code.)*

### ***AB 711 – Requires Schools To Update Information Related To Updated Legal Name Or Gender.***

According to AB 711, upon receipt of government-issued documentation demonstrating that a former pupil's name legal name or gender has been changed, school districts, county offices of education, and charter schools to update the school records of the former pupil to include the updated legal name or gender. The school district, county office of education, or charter school must update records, including, but not limited to, a transcript, a high school diploma, a high school equivalency certificate, or other similar documents. The school district, county office of education, or charter school need not modify records the former pupil has not requested for modification or reissuance.

Qualifying documentation demonstrating a legal change to a former pupil's legal name or gender includes, but is not limited to a driver's license, birth certificate, passport, social security card, or court order. Former pupils who are not able to provide this required government-issued documentation may request a gender or name change in their pupil records through the process set forth in Education Code section 49070 regarding challenging the content of pupil records (which AB 711 also amends, as described below). The school must add a new document to the pupil's file indicating the date of the request, the reissued documents, the type of documentation provided to prove the change, the name of the staff person

that completed the request, and the current and former names/gender.

A parent or guardian may also request a correction to a pupil's information. After a change made at the request of a parent, the pupil's file must include a document with the date of the request, the date of the correction, a list of the requested records to be corrected, any documentation provided by the parent or guardian to support the change, the name of the employee that completed the request, and the corrections that were made. The district must maintain this document indefinitely in a confidential manner.

*(AB 711 adds Section 49062.5 to the Education Code and amends Section 49070 of the Education Code.)*

## **EARLY LEARNING**

### ***AB 114 – Appropriates Funds For Early Learning And Care Infrastructure Grant Program (Education Omnibus Trailer Bill).***

This bill appropriates an additional \$102,295,000 to the State Department of Education for the Early Learning and Care Infrastructure Grant Program. Existing law provided the State Superintendent of Education shall administer the Early Learning and Care Workforce Development Grants Program. Additionally, it provided that \$195,000,000 should be appropriated to the Department of Education's General Fund for administration of the Early Learning and Care Workforce Grants Program. Previously, \$129,000,00 was to be released during the 2019-2020 fiscal year. This bill reduces the amount appropriated to the Early Learning and Care Workplace Grant during the 2019-20 fiscal year by \$45,000.

This bill requires the creation of a parent advisory committee for the Early Childhood Policy Council as follows:

- The governor must appoint three members

of the parent advisory committee for the Early Childhood Policy Council. One parent must be a consumer of childcare center services. One parent must be a parent of a special needs child, and one must be on a childcare subsidy waiting list.

- The Speaker of the Assembly must appoint three parents to the committee. One must be a consumer who receives services from a family childcare home provider, one must be a consumer who is a current or former CalWORKs childcare recipient, and one must be consumer who is connected to the child welfare system.
- The Senate Committee on Rules will appoint three members of the committee, including one consumer who receives services from a transitional kindergarten provider, one consumer who represents a tribal organization who receives services from a childcare provider, and one consumer who pays privately for childcare. The Governor shall designate the chairperson of the committee.

The bill also requires the creation of a workforce advisory committee. The workforce advisory committee for the Early Childhood Policy Council shall be appointed as follows:

- The Governor must appoint three members appointed, including one licensed family childcare home provider, one center-based childcare director from a subsidized childcare program, and one representative from a statewide organization representing childcare providers.
- The Speaker of the Assembly must appoint three members appointed, including one family, friend, or neighbor childcare provider, one representative from a Head Start program provider, and one representative from a community college that operates a program that provides early childcare education coursework and laboratory school experience.
- Three members appointed by the Senate Committee on Rules, including one representative from a childcare provider experienced in providing services to children with exceptional needs,

in a full-inclusion environment, one center-based childcare teacher from a subsidized childcare program, and one provider who provides services to children from a tribal organization.

The Governor shall designate the chairperson of the workforce advisory committee.

This bill provides reallocates \$250,000 dollars to Norco College to support Norco's workplace development program to progress meeting the minimum standards set by the Office of the Chancellor.

This bill defines a "Kids Account" as an account in which designated funding for eligible children is held and replaces the phrase "subaccount" with "Kids Account."

This bill provides that Scholarshare Investment Board can request birth information for official government purposes.

This bill provides that the \$38,100,000 allocated to the State Department to support professional learning is subject to a maximum of an 8 percent indirect cost rate for the competitive grant award-ees

*(AB 114 amends Section 8280, 8280.1, 8286, 41207.47, 45500, 51226.7, 56213, 56836.08, 56836.4, 69617, 69996.2, 69996.3, and 69996.6 of the Education Code. It also amends Section 102430 of the Health and Safety Code and Section 84 of Chapter 51 of the Statutes of 2019 relating to Education finance.)*

## FREE AND REDUCED-PRICE LUNCH PROGRAMS

***SB 265 – Amends the Child Hunger Prevention And Fair Treatment Act To Ensure Pupils Are Not Denied Reimbursable Meals Because The Pupil’s Parent Or Guardian Has Unpaid School Meal Fees.***

The Child Hunger Prevention and Fair Treatment Act of 2017 – Education Code section 49557.5 – previously provided that local educational agencies shall ensure that a pupil whose parent or guardian has unpaid school meal fees is not shamed, treated differently, or served a meal that differs from what a pupil whose parent does not have unpaid school meal fees. SB 265 amends the Act to additionally state that a local educational agency shall ensure that a pupil whose parent or guardian has unpaid school meal fees shall not be denied a reimbursable meal of the pupil’s choice because of the fact that the pupil’s parent or guardian has unpaid meal fees. SB 265 provides that it does not prohibit a school from serving an alternative reimbursable meal to a pupil who may need one for dietary or religious reasons, or as a regular menu item. The statute previously included the reference to dietary or religious reasons, but SB 265 adds the reference to “or as a regular menu item.”

*(SB 265 amends Section 49557.5 of the Education Code.)*

## GRADUATION REQUIREMENTS

***AB 1062 – Allows Community Emergency Response Training To Count Toward Community Service Hours.***

This bill allows the governing board of a school district that requires community service hours for graduation to provide a pupil with credit towards the required community service hours equal to

the hours required for completion of a community emergency response training course.

*(AB 1062 amends Section 51320 of the Education Code.)*

***AB 1097 – Requires Report On Credit Recovery Programs.***

This bill requires the State Department of Education to provide a report to the Governor and Legislature regarding the use of credit recovery programs in California Public Schools on or before July 1, 2021. “Credit recovery” refers to a pupil passing, and receiving credit for, a course that the pupil previously attempted, but for which the pupil was unsuccessful in earning academic credit towards graduation. Credit recovery programs aim to help schools graduate more pupils by giving pupils who have fallen behind the chance to recover credits through a multitude of different strategies.

*(AB 1097 amends Section 1983 and adds section 33318.1 to the Education Code.)*

## INSTRUCTION/TESTING

***AB 1234 – Changes Calculation For Standardized Test Materials Provided To Test Administrators.***

Current law requires a standardized test sponsor to provide test subjects materials for at least 50 percent of regular test administrations, rounded to the nearest whole number. AB 1234 changed the calculation to 50 percent of regular test administrations, unless the calculation is a fraction, which should be rounded down to the nearest whole number.

*(AB 1234 amends Section 99157 of the Education Code.)*



***AB 1240 – Provides New Measures For County Boards Of Education And School Districts To Measure Pupil Achievement.***

This bill provides that county boards of education and school districts must measure pupil achievement plans by the percentage of pupils who have successfully completed college entrance requirements, the percentage of pupils that successfully satisfy career technical education requirements, and the percentage of pupils that have completed both types of courses.

**NOTE:**

*This bill also provides that governing bodies of charter schools shall adopt local control and accountability plans with information from a template provided by Section 52064 of the Education Code, but that provision would only become operative if the governor approved AB 967. Because Governor Newsom vetoed AB 967, this portion of the bill did not become law.*

*(AB 1240 amends Sections 52060, 52066, of the Education Code.)*

## SEXUAL ASSAULT

***AB 218 – Significantly Extends The Statute Of Limitations Period For Claims Of Childhood Sexual Assault.***

Under existing law, the statute of limitations period for filing a civil lawsuit seeking recovery for damages suffered as the result of childhood sexual abuse against a person or entity is the later of: (1) 8 years after the individual reaches the age of majority or; (2) within 3 years of the date the individual discovers or reasonably should have discovered that the psychological injury or illness occurring after the age of majority was caused by sexual abuse.

AB 218 expands the definition of childhood sexual abuse, and instead refers to this as childhood

sexual assault. AB 218 also increases the time limit for an individual to bring a civil lawsuit initiating an action to recover damages suffered as a result of childhood sexual assault to the later of: (1) 22 years after reaching the age of majority; or (2) Five years of the date the individual discovers or reasonably should have discovered that the psychological injury or illness occurring after the age of majority was caused by the childhood sexual assault.

The law further provides that in an action for liability against a person or entity for intentionally or negligently causing the childhood sexual assault that resulted in the injury, the action may not be commenced after the plaintiff's 40th birthday "unless the person or entity knew or had reason to know, or was otherwise on notice, of any misconduct that creates a risk of childhood sexual assault by an employee, volunteer, representative, or agent, or the person or entity failed to take reasonable steps or to implement reasonable safeguards to avoid acts of childhood sexual assault." The law states that "providing or requiring counseling is not sufficient, in and of itself, to constitute a reasonable step or reasonable safeguard."

AB 218 allows courts to compel a defendant to pay up to three times the amount of actual damages to a plaintiff if an attempted cover up of the childhood sexual assault was involved, unless prohibited by another law. A "cover up" is defined as "a concerted effort to hide evidence relating to childhood sexual assault."

AB 218 provides a three-year revival period for previously lapsed claims. AB 218 states that for any claims for damages in which the statute of limitations would otherwise be barred as of January 1, 2020, the time limit is now extended, and may be commenced within the later of: (1) three years from January 1, 2020; or (2) the statute of limitations period established by this new law.

One of the effects of the #MeToo movement is that more people are coming forward and report-

ing claims of sexual assault that occurred in the past, sometimes even decades ago. In light of AB 218, it will be easier for individuals alleging childhood sexual assault to establish that the conduct occurred within the significantly expanded statute of limitations period. Further, AB 218 provides a three-year revival window, which will allow individuals to assert previously lapsed claims.

AB 218 does not change our advice regarding best practices for appropriately responding to student sexual assault claims and reducing liability. It is important for school districts and other public educational agencies to be pro-active in safeguarding students, which includes complying with criminal background check requirements for employees and volunteers, ensuring proper supervision of students at school and during school and district-sponsored events and field trips, and having robust, written, conduct policies that protect students. Any time a school district or other public educational institution receives a report that a student under the age of 18 was subject to sexual assault by another individual, the school district employee or administrator who received the report is required by law to make a mandated report.

It is also important for school districts or other public educational institutions to promptly investigate reports of student sexual assault, although these investigations should be coordinated with law enforcement when there is a pending criminal investigation. When school districts receive reports from current or former students that they were sexually assaulted, it is critical for school districts to investigate if there are allegations that: (1) the conduct took place at school or a school district sponsored event; 2) a school district employee was made aware of the conduct but did not take appropriate action, or (3) the conduct was by a school district employee or current student. If the claim involves conduct that allegedly took place a long time ago, the school district should find out who its insurance company was at the time in question so it knows who to tender a claim to in the event of a lawsuit.

Although it can be more difficult to investigate claims by former students if the reported conduct took place many years ago, it is important to investigate these claims regardless of how much time has passed. If any of the key individuals involved in the former student's complaint are still members of the school district community, the school district should take prompt action to investigate in order to prevent future misconduct. For example, if the claim is against a teacher who is still employed by the school district, the school district should investigate the complaint because it is possible that the teacher could still be engaging in misconduct with others. In other cases, if the allegation is against a former employee, it is still important to investigate what occurred in order to determine whether any current employee or administrator had knowledge at the time about the misconduct and failed to take appropriate action.

*(AB 218 amends Sections 340.1 and 1002 of the Code of Civil Procedure, and amends Section 905 of the Government Code, relating to childhood sexual assault.)*

## SPECIAL EDUCATION

### ***AB 605 – Requires Local Educational Agencies To Provide Continued Access To School Assistive Technology.***

AB 605 requires a local education agency (defined as a school district, county office of education, or a charter school) to provide a pupil access to a school-purchased assistive technology device when the pupil is at home or in other similar settings on a case-by-case basis. The pupil's individualized education program team shall determine whether the pupil needs access to devices outside of school to receive a free and appropriate public education.

AB 605 also requires a local education agency to continue to provide continued access to a device when a pupil enrolls in a new local education

agency until the pupil's new local education agency has an opportunity to make alternative arrangements. A local education agency can also stop providing continued access to a device after a pupil has been enrolled in the pupil's new local education agency for over two months.

*(AB 605 adds Section 56040.3 to the Education Code.)*

### **AB 947 – Expands Core Curriculum For The Visually Impaired.**

This bill provides that local educational agencies (school districts, county offices of education, and charter schools) may consider an expanded core curriculum when developing individualized education programs for pupils who are visually impaired.

The expanded core curriculum is defined to be all of the following:

- Compensatory skills, such as braille and concept development and other skills needed to access the core curriculum.
- Orientation and mobility.
- Social interaction skills.
- Career technical education.
- Assistive technology, including optical devices.
- Independent living skills.
- Recreation and leisure.
- Self-determination.
- Sensory efficiency.

A local education agency may provide these services before or after school hours, if appropriate to ensure that a pupil will receive adequate services. A local education agency may require annual written parental consent when services are provided before or after regular school hours

or away from the school site.

If a visually-impaired pupil needs an orientation and mobility evaluation, it shall be conducted by a person who is appropriately certified. The evaluator must conduct the orientation and mobility evaluations in familiar and unfamiliar environments, in varying lighting conditions, and in the home, school, and community. The local education agency shall not impose any limitations that result in the preclusion or the limitation of a pupil's ability to receive instruction in orientation and mobility services in the home, school, or community settings, or in varying lighting conditions, as designated in the pupil's individual educational program.

This bill also provides that if a local education agency prohibits an orientation and mobility specialist from using their vehicle for the transportation of pupils to and from orientation and mobility instruction, the local education agency shall provide, without cost to the orientation and mobility specialist, an equally effective transportation alternative.

*(AB 947 adds Sections 56353 and 56354 to the Education Code.)*

### **AB 1651 – Expands Definition Of Supervisor For Educationally Related Mental Health Services.**

Under current law, unlicensed persons, including an applicant for licensure, an associate, an intern, or a trainee, are allowed to perform specified services under the supervision of a healing arts practitioner that is a "supervisor." This bill expands the definition of "supervisor" to include a licensed educational psychologist supervising the provision of educationally related mental health services.

*(AB 1651 amends Section 4980.03, 4980.43, 4980.44, 4980.48, 4989.14, 4989.54, 4996.20, 4996.23, 4999.12, and 4999.46 of the Business and Professions Code.)*

## SPECIAL POPULATIONS

### *AB 1319 – Allows Migratory Children To Continue Attending Their School Of Origin.*

Current law requires students ages 6-18 years to attend school in the school district where the residency of the student's parent or legal guardian is located. A "migratory child" is a child that has moved with a parent or other custodial person to a new school district so that the student's parent may secure temporary employment in an agricultural or fishing activity, and whose guardians have been informed of the child's eligibility for migrant education services.

This bill requires local educational agencies to allow a pupil who is a "migratory child" to continue attending their school of origin or a school within the school district of origin regardless of any change of residence of the pupil. This bill does not require a local education agency to provide a pupil with transportation services or online instruction.

*(AB 1319 adds Section 48204.7 to the Education Code.)*

### *AB 1354 – Assigns Transition Oversight For Youth In The Juvenile Justice System To The County Office Of Education.*

This bill assigns transition oversight responsibilities for youth in the juvenile system entering or transferring from a juvenile court school to county office of education staff. County office of education employees shall collaborate with the county probation department and relevant local educational agencies to ensure the complete transfer of records, access to postsecondary and vocational opportunities, the implementation of a pupil's transition plan, and to facilitate enrollment in an appropriate public school.

Under this bill, the county office of education must work with the county probation depart-

ment to prepare an individualized transition plan for pupils detained for more than 20 consecutive schooldays. The county office must develop the individualized transition plan before the pupil's release. The plan must address the academic, behavioral, social-emotional, and career needs of the pupil. Additionally, the individualized transition plan shall identify resources to support the pupil's transition out of juvenile detention. Pupils detained for more than 20 consecutive schooldays shall have access to transcripts, the individualized learning plan, their education program, their plan adopted under section 504, any academic and vocational assessments, an analysis of credits completed, and any certificates or diplomas earned upon the pupil's release.

*(AB 1354 amends Section 48647 of the Education Code.)*

### *SB 716 – Requires A County Probation Department Or The Division Of Juvenile Facilities To Ensure That Youth Detained In A Juvenile Hall, Ranch, Camp, Or Forestry Camp Or Division Of Juvenile Facilities Facility Have Access To Public Postsecondary Academic And Career Technical Courses And Programs Offered Online.*

SB 716 requires a county probation department to ensure that juveniles with a high school diploma or California high school equivalency certificate who are detained in, or committed to, juvenile hall, ranch, camp or forestry program, have access to, and can choose to participate in, public postsecondary academic and career technical courses and programs offered online. The juveniles must meet eligibility criteria and be able to meet course schedules. SB 716 encourages the Division of Juvenile Facilities to develop educational partnerships with local public postsecondary campuses, if feasible, to develop programs on campus and onsite at the facility.

SB 716 requires the Division of Juvenile Facilities ensure that youth with a high school diploma or

California high school equivalency certificate who are detained in, or committed to, a Division of Juvenile Facilities facility have access to, and can choose to participate in, public postsecondary academic and career technical courses and programs offered online. The youth must meet eligibility criteria and be able to meet course schedules. SB 716 encourages the Division of Juvenile Facilities to develop educational partnerships with local public postsecondary campuses, if feasible, to develop programs on campus and onsite at the facility. This requirement applies only to the extent it is feasible using available resources. This provision is inoperative July 1, 2020 and a new section is operative July 1, 2020. The new section is the same but uses the title “Department of Youth and Community Restoration” rather than “Division of Juvenile Facilities.”

SB 716 does not preclude juvenile court school pupils or youth detained in a Division of Juvenile Facilities facility who have not yet completed their high school graduation requirements from concurrently participating in postsecondary academic and career technical education programs.

*(SB 716 amends Sections 858, 889.2 and 1762 of the Welfare and Institutions Code.)*

## STUDENT ATHLETES

### *AB 1 – Requires Youth Sports Organizations That Sponsor Or Conduct Tackle Football To Comply With Specific Requirements Regarding Training, Practices, And Information Provided To Parents.*

AB 1, known as the California Youth Football Act, requires a youth sports organization that sponsors or conducts youth tackle football to comply with certain requirements by January 1, 2021, and defines a youth sports organization broadly as “an organization, business, or nonprofit entity that sponsors or conducts amateur sports competition, training, camps, clinics, practices, or clubs.” We have interpreted this bill to apply to

school districts and charter schools. Districts or schools that sponsor or conduct amateur youth tackle football competitions, camps, clinics, practices, or clubs or participate in a youth football league will be required to comply with AB 1 requirements.

Under existing law, which went into effect in 2015, a school district or charter school that elects to offer a tackle football program is prohibited from allowing a high school or middle school football team to conduct more than two full-contact practices per week during the preseason and regular season. Existing law also prohibits the full-contact portion of a practice from exceeding 90 minutes in any single day and completely prohibits full-contact practice during the off-season.

Pursuant to AB 1, school districts or charter schools that sponsor or conduct tackle football amateur sports competitions, camps, clinics, practices, or clubs will be required to take the following measures by January 1, 2021:

- The full-contact portion of a practice shall not exceed 30 minutes in any single day.
- A youth tackle football coach shall annually receive a tackling and blocking certification from a nationally recognized program that emphasizes shoulder tackling, safe contact and blocking drills, and techniques designed to minimize the risk during contact by removing the involvement of youth tackle football participant’s head from all tackling and blocking techniques.
- Each youth tackle football administrator, coach, and referee shall annually complete all of the following:
  - (1) Concussion and head injury education pursuant to Health and Safety Code Section 124235.
  - (2) The Opioid Factsheet for Patients pursuant to Health and Safety Code Section 124236.

(3) Training in the basic understanding of the signs, symptoms, and appropriate responses to heat-related illness.

- Each parent or guardian of a youth tackle football participant shall receive concussion and head injury information for that athlete pursuant to Section 124235 and the Opioid Factsheet for Patients pursuant to Section 124236.
- Each football helmet shall be reconditioned and recertified every other year, unless stated otherwise by the manufacturer. Only entities licensed by the National Operating Committee on Standards for Athletic Equipment shall perform the reconditioning and recertification. Every reconditioned and recertified helmet shall display a clearly recognizable mark or notice in the helmet indicating the month and year of the last certification.
- A minimum of one state-licensed emergency medical technician, paramedic, or higher-level licensed medical professional shall be present during all preseason, regular season, and postseason games. The emergency medical technician, paramedic, or higher-level licensed medical professional shall have the authority to evaluate and remove any youth tackle football participant from the game who exhibits an injury, including, but not necessarily limited to, symptoms of a concussion or other head injury.
- A youth tackle football coach shall annually receive first aid, cardiopulmonary resuscitation, and automated external defibrillator certification.
- At least one independent individual not on the roster, appointed by the youth sports organization, shall be present at all practice locations. The individual shall hold current and active certification in first aid, cardiopulmonary resuscitation, automated external defibrillator, and concussion protocols. The individual shall have the authority to evaluate and remove any youth tackle football par-

icipant from practice who exhibits an injury, including, but not limited to, symptoms of a concussion or other head injury.

- Safety equipment shall be inspected before every full-contact practice or game to ensure that all youth tackle football participants are properly equipped.
- Each youth tackle football participant must comply with Section Health and Safety Code section 124235 regarding youth sports organization concussion protocols. The injury must be reported to the youth tackle football league.
- Each youth tackle football participant must complete a minimum of 10 hours of noncontact practice at the beginning of each season for the purpose of conditioning, acclimating to safety equipment, and progressing to the introduction of full-contact practice. During this noncontact practice, the youth tackle football participants shall not wear any pads, and shall only wear helmets if required to do so by the coaches.
- A youth sports organization must annually provide a declaration to its youth tackle football league stating that it is in compliance with these requirements, and must either post the declaration on its internet website or provide the declaration to all youth tackle football participants within its youth sports organization.

On and after January 1, 2021, AB 1 requires a youth tackle football league to:

- Establish youth tackle football participant divisions that are organized by relative age or weight or by both age and weight.
- Retain information from which the names of individuals shall not be identified for the tracking of youth sports injuries. This information shall include the type of injury, the medical treatment received by the youth tackle football participant, and return to play protocols followed by the participant pursuant

to subdivision (l) of Health and Safety Code Section 124241.

*(AB 1 adds Sections 12420-12424 to the Health and Safety Code, relating to youth athletics.)*

## STUDENT SAFETY

### *SB 541 – Requires The California Department Of Education And Local Educational Agencies To Collect Data Pertaining To Lockdown Or Multi-option Response Drills Conducted At Schoolsites Within School Districts, County Offices Of Education, And Charter Schools.*

SB 541 requires the California Department of Education to collect, and local educational agencies to provide, data pertaining to lockdown or multi-option drills conducted at schoolsites within school districts, county offices of education, and charter schools providing instructional services to pupils in kindergarten and grades 1 to 12. The Department may collect the data from a representative sample of school sites. The State Superintendent of Public Instruction will determine the methodology for collection of a representative sample.

The Department must collect data including, but not limited to, all of the following:

- The portion of schoolsites conducting drills and the population they serve;
- The types of drills performed and their frequency;
- Information about staff training in preparation for drills;
- Information pertaining to schoolsite evaluations, if any, of the drill impacts; and
- Information pertaining to staff and parental notifications of drills.

School districts, county offices of education, and charter schools should be prepared to collect and provide data on each of the above to the Department.

The Department shall either conduct, or contract with a nonprofit research entity to conduct, a study that identifies the best practices for age-appropriate drills, the effectiveness of lockdown or multi-option response drills in schools, and the effects drills have on pupil emotional wellbeing and emergency preparedness. The Department must submit the report to the Governor and relevant policy committees of the Legislature on or before November 1, 2021.

SB 541 makes these provisions inoperative effective November 1, 2025.

*(SB 541 adds Section 32289.5 to the Education Code.)*

## SUICIDE PREVENTION

### *AB 1767 – Requires Suicide Prevention Policies.*

This bill requires local education agencies (school districts, county offices of education, state special schools, and charter schools) that serve pupils in grades kindergarten and grades one to six to adopt a pupil suicide prevention policy. The local education agency must consult with school and community stakeholders, the county mental health plan, the school employed mental health professionals, and suicide prevention experts when developing the policy. The policy must address procedures relating to suicide prevention, intervention, and “postvention.” The policies must also be age appropriate and discussed in a manner that is sensitive to the young ages of the pupils. The policy must coordinate with the county mental health plan if a referral is made on behalf of a pupil that is a Medi-Cal beneficiary.

*(AB 1767 amends Section 215 of the Education Code.)*

## VACCINATIONS

### *SB 276 AND AB 714 – Provides New Requirements And Procedures For Establishing Medical Exemptions From California Required Student Vaccinations.*

SB 276 and SB 714 materially change the medical exemption process for student required vaccinations. SB 276 was drafted as the initial bill, and SB 714 is a clean-up bill, which contains revisions to SB 276.

Under existing law, all public institutions responsible for the administration of public institutions such as a public elementary or secondary school, child daycare center, nursery, family day care home, or development center must require documentary proof of each entrant's immunization status, and may not admit for attendance any student unless he or she has received the required immunizations prescribed by the State Department of Public Health. However, existing law also provides a medical exemption for students from these immunization requirements. Under this medical exemption, a written statement by a licensed physician must be submitted to the school that provides information that the student has a physical condition or medical circumstances that make immunizations unsafe for the student, indicating the specific nature and probable duration of their medical condition or circumstances, including, but not limited to, family medical history. (Health and Safety Code, § 120370, subd. (b)).

Recently issued regulations (Cal. Code Regs., tit. 17, § 6051) further require that commencing July 1, 2019, in order to obtain a valid medical exemption from immunizations, a parent or guardian must submit a signed, written statement from a physician licensed in California which states: (1) The specific nature of the physical condition or medical circumstance of the child for which a licensed physician does not recommend immunization; (2) each specific required vaccine that is being exempted; (3) whether the medical exemp-

tion is permanent or temporary; and (4) If the exemption is temporary, an expiration date no more than 12 calendar months from the date of signing. SB 276 and SB 714 change the requirements for this medical exemption, and impose the following requirements for physicians, parents, schools, and the State, as set forth below:

#### **1. Use of Standardized Medical Exemption Form**

Under SB 276, the State Department of Public Health, by January 1, 2021, is required to develop and make available for use by licensed physicians and surgeons an electronic, standardized, state-wide medical exemption request form that would be transmitted using the California Immunization Registry (CAIR) and which, commencing January 1, 2021, would be the only documentation of a medical exemption that a school or district may accept.

At a minimum, the medical exemption form must require all of the following:

- The name, California medical license number, business address, and telephone number of the physician and surgeon who issued the medical exemption, and of the primary care physician of the child, if different from the physician who issued the medical exemption.
- The name of the child for whom the exemption is sought, the name and address of the child's parent or guardian, and the name and address of the child's school or other institution.
- A statement certifying that the physician has conducted a physical examination and evaluation of the child consistent with the relevant standard of care and complied with all applicable requirements of this law.
- Whether the physician who issued the medical exemption is the child's primary care physician. If the issuing physician is not the child's primary care physician, the issuing physician shall also provide an explanation as to why the



issuing physician and not the primary care physician is filling out the medical exemption form.

- How long the physician has been treating the child.
- A description of the medical basis for which the exemption for each individual immunization is sought. Each specific immunization shall be listed separately and space on the form shall be provided to allow for the inclusion of descriptive information for each immunization for which the exemption is sought.
- Whether the medical exemption is permanent or temporary, including the date upon which a temporary medical exemption will expire. A temporary exemption shall not exceed one year. All medical exemptions shall not extend beyond the grade span, as defined by this law.
- An authorization for the department to contact the issuing physician for purposes of this law and for the release of records related to the medical exemption to the department, the Medical Board of California, and the Osteopathic Medical Board of California.
- A certification by the issuing physician that the statements and information contained in the form are true, accurate, and complete.

## **2. Obligations of Physicians and Surgeons to Provide Notice of Requirements to Parents**

Commencing January 1, 2021, if a parent or guardian requests a licensed physician and surgeon to submit a medical exemption for the parent's or guardian's child, the physician and surgeon shall inform the parent or guardian of the requirements set forth in SB 276. If the parent or guardian consents, the physician and surgeon shall examine the child and submit a completed medical exemption certification form to the State Department of Public Health.

## **3. Requirements by Educational Institutions to Submit Annual Reports on Immunization Status to the State**

Existing law requires the governing authority of a school district or other educational institution to file a written report on the immunization status of new students of the schools in the district with the State Department of Public Health and the local health department at times and on forms prescribed by the State Department of Public Health. SB 276 requires these reports to be filed on at least an annual basis.

## **4. State's Review of Medical Exemptions**

SB 276 requires the State Department of Public Health to annually review immunization reports from schools and educational institutions to identify schools with an overall immunization rate of less than 95%, physicians and surgeons who submitted 5 or more medical exemption forms in a calendar year, and schools and institutions that do not report immunization rates to the department. SB 276 requires a clinically trained department staff member who is a physician and surgeon or a registered nurse to review all medical exemption forms submitted meeting those conditions. SB 276 authorizes the medical exemptions determined by that staff member to be inappropriate or otherwise invalid to be reviewed by the State Public Health Officer or a physician and surgeon designated by the State Public Health Officer, and revoked by the State Public Health Officer or physician and surgeon designee, under prescribed circumstances. SB 714 provides that medical exemptions issued prior to January 1, 2020, will not be revoked unless the exemption was issued by a physician or surgeon that has been subject to disciplinary action by the Medical Board of California or the Osteopathic Medical Board of California.

## **5. Appeal Process**

SB 276 authorizes a parent or guardian to appeal a medical exemption denial or revocation to the Secretary of California Health and Human

Services. The appeal would be conducted by an independent expert review panel of licensed physicians and surgeons established by the secretary. SB 276 requires the independent expert review panel to evaluate appeals consistent with specified guidelines and to submit its decision to the secretary. SB 276 requires the secretary to adopt the determination of the independent expert review panel and promptly issue a written decision to the child's parent or guardian. The final decision of the secretary would not be subject to further administrative review.

SB 276 allows a child whose medical exemption revocation is appealed to continue in attendance at the school without being required to commence the immunization schedule required for conditional admittance, provided that the appeal is filed within 30 calendar days of revocation of the medical exemption.

SB 276 requires the Department of Public Health and the independent expert review panel to comply with all applicable state and federal privacy and confidentiality laws and would authorize disclosure of information submitted in the medical exemption form in accordance with requirements set forth in the law.

#### 6. Medical Exemptions obtained Prior to January 1, 2021

Prior to January 1, 2021, if the parent or guardian files with the governing authority a written statement by a licensed physician and surgeon to the effect that the physical condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances, including, but not limited to, family medical history, for which the physician and surgeon does not recommend immunization, that child shall be exempt from vaccination requirements.

A child who has a medical exemption issued before January 1, 2020, is allowed to continue

enrollment at a school of the educational institution until the child enrolls in the next grade span, which is each of the following: (A) Birth to pre-school, inclusive; (B) Kindergarten and grades 1 to 6, inclusive, including transitional kindergarten; and (C) Grades 7 to 12, inclusive.

On and after July 1, 2021, an educational institution may not unconditionally admit or readmit or advance any student to 7th grade level, unless the student has been immunized or has a medical exemption through a procedure that includes the completion of a compliant statewide form.

*(SB 276 and 714 amend Sections 120370, 120375, and 120440 of the Health and Safety Code, and add Sections 120372 and 120372.05 to the Health and Safety Code, relating to public health.)*

## STUDENTS - BILLS SPECIFIC TO COLLEGE STUDENTS

### ADMISSIONS

#### *AB 806 – Allows Former Homeless Youth Priority Enrollment.*

This bill requires the California State University and each community college district that administers a priority enrollment system, to grant priority for registration for enrollment to former homeless youth. It also repeals the provision ending priority registration for homeless youth on January 1, 2020.

*(AB 806 amends sections 66025.9, 67003.5, 69514.5, 69561, and 76300 of the Education Code.)*

#### *AB 1383 – Changes Admission By Exception Criteria.*

Existing law defines an "admission by exception" as the process by which a campus of the California State University or the University of California

admits applicants who do not meet the eligibility requirements for admission to the segment, or guaranteed admission to a campus of the segment, but who demonstrate high potential for success and leadership in an academic or special talent program at the campus.

Beginning with admissions for the 2020-21 academic year, this bill prohibits admission by exception, unless: (1) the admission by exception has been approved prior to the student's enrollment, by 3 senior campus administrators; (2) the applicant is a California resident who is receiving an institution-based scholarship to attend the campus; (3) or the applicant is accepted by an educational opportunity program for admission to the campus. This prohibition only applies to the University of California if adopted by the Regents by appropriate resolution.

*(AB 1383 adds Section 66022.5 to the Education Code.)*

## COLLEGE AND CAREER ACCESS

### *AB 30 – Requires Protocols For Community College Districts Participating College And Career Access Path Partnerships.*

This bill requires that protocols for a community college district participating in a College and Career Access Path (“CCAP”) shall only require high school pupils participating in the program to submit one parental consent form and a principal recommendation. AB 30 also states that units completed by a pupil pursuant to the CCAP program may count towards a pupil's registration priority. Additionally, the Chancellor of the California Community Colleges, on or before July 31, 2020, must revise the special part-time pupil application process to allow a pupil to complete an application, for the duration of the pupil's CCAP participation.

Community college districts should consult with local workplace development boards to determine which CCAP pathways are aligned with state employment needs. Districts must also take comments from the public on the dual enrollment partnership in an open meeting.

This bill also extends section 76004 of the Education Code to remain in effect until January 1, 2027 instead of January 1, 2022.

*(AB 30 amends Section 76004 of the Education Code.)*

### *AB 1729 – Exempts Pupils From The College And Career Access Pathways Program From Summer Session Limitations.*

Current law places limits on the number of pupils principals of schools in school districts can recommend for community college summer sessions. Principals may only recommend five percent of the total number of pupils in any grade level.

Current law provides certain exemptions from the 5% limitation. One exemption is for pupils taking courses that are part of a College and Career Access Pathways program. This bill extends these exemptions until January 1, 2027. This bill also provides that the five percent limitation applies to pupils enrolled in physical education courses. It also prohibits the Board of Governors from including enrollment growth attributable to pupils enrolled pursuant to this bill as part of its annual budget request.

*(AB 1729 amends Section 48800 of the Education Code.)*

### *SB 554 – Allows Governing Boards Of School Districts And Community College Districts To Authorize Students In Adult Schools And Noncredit Programs To Attend A Community College As A Special Part-Time Student.*

Existing law allows the governing board of a

community college district to admit to any community college under its jurisdiction a high school student as a special part-time student and receive credit or reimbursement for the student's attendance, known as dual or concurrent enrollment. SB 554 adds adult school and noncredit students to the authorization for dual or concurrent enrollment.

Specifically, the governing board of a school district overseeing an adult education program or the governing board of a community college district overseeing a noncredit program may authorize a student pursuing a high school diploma or high school equivalency certificate to attend a community college during any semester or term as a special part-time student for whom the community college shall be credited or reimbursed (provided that no school district has received reimbursement for the same instructional activity). The administrator of the student's adult school or noncredit program of attendance must recommend the student as a special part-time student.

The intent of SB 554 is to better facilitate streamlined enrollment in collocated credit college courses on adult education and noncredit program sites and to help ensure a smoother transition from secondary education to college for high school equivalency students by providing them with greater exposure to the collegiate atmosphere.

*(SB 554 adds Sections 52620 and 52621 to the Education Code and amends Sections 76001 and 76002 of the Education Code.)*

***SB 586 – Requires Community College And School Districts In A College And Career Access Pathways Partnership To Consult With The Appropriate Local Workforce Development Board As A Condition Of Adopting A Partnership Agreement.***

Existing law authorizes the governing board of a community college district to enter into a College and Career Access Pathways (“CCAP”)

partnership with the governing board of a school district or the governing body of a charter school with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness.

SB 586 requires the governing board of a community college district and the governing board of a school district or charter school providing career technical education pathways under a CCAP partnership to consult with, and consider the input of, the appropriate local workforce development board. The purpose of this consultation and input is to determine the extent to which the pathways are aligned with regional and statewide employment needs. This requirement is a condition of entering into a CCAP partnership agreement. The governing board of each district shall have final decision-making authority regarding the career technical education pathways the districts will provide under the CCAP partnership agreement.

SB 586 would also change the requirement for adoption of a CCAP partnership agreement. Previous law required the governing board of each district to present a proposed CCAP partnership agreement at an open, public meeting and then take comments and approve or disapprove the agreement at a subsequent meeting. SB 586 requires the board of each district to present the agreement, take public comments on it, and approve or disapprove the agreement in one open, public meeting.

SB 586 provides that units a pupil completes pursuant to a CCAP agreement may count towards determining a pupil's registration priority for enrollment and course registration at a community college.

SB 586 also extends the effective date of the CCAP statutory provisions five years from January 1, 2022 to January 1, 2027.

*(SB 586 amends Section 76004 of the Education Code.)*

## DISCRIMINATION/ ACCOMMODATION

### *AB 809 – Requires Post-Secondary Schools To Post Notification Of Protections For Pregnant Students.*

AB 809 provides that public post-secondary schools shall notify pregnant and parenting students of the protections of Title IX on the school's website. On-campus medical centers shall also provide notice of Title IX protections if asked by a student.

Additionally, AB 809 provides that child development programs established by California Community Colleges are encouraged to give priority to children of students who are single parents and who meet income criteria established by the institution.

*(AB 809 adds Section 66061 to the Education Code and amends Section 66281.7.)*

## DEBT COLLECTION

### *AB 1313 – Prohibits Postsecondary Schools From Withholding Of Transcripts.*

Under existing law, the Donahoe Higher Education Act, requires public higher education entities to adopt regulations to withhold institutional services, including the withholding of transcripts, upon notice to students that they are in default of their loans.

Notwithstanding those provisions, AB 1313 prohibits any public or private postsecondary school, or any public or private entity that is responsible for providing transcripts to current or former public or private postsecondary students, from refus-

ing to provide a transcript for a current or former student on the grounds that the student owes a debt. AB 1313 further prohibits charging a higher fee for obtaining a transcript or providing less favorable treatment of a transcript request because a student owes a debt, or using a transcript issuance as a tool for debt collection.

*(AB 1313 adds Title 1.6C.7 (commencing with Section 1788.90) to Part 4 of Division 3 of the Civil Code, and to amend Sections 66022 and 76225 of the Education Code, relating to student debts.)*

## ELECTIONS/VOTER INFORMATION

### *AB 59 – Requires County Election Officials To Consider A Vote Center Location On A Public Or Private University Of College Campus.*

Existing law requires the Secretary of State to annually provide every high school, community college, and California State University and University of California campus with voter registration forms. Existing law also expresses the intent of the Legislature that every eligible high school and college student receive a meaningful opportunity to register to vote.

Existing law authorizes certain counties, on or after specified dates, to conduct any election as an all-mailed ballot election if, among other conditions, the county elections official permits a voter to vote using ballot at a vote center. Existing law requires a county elections official conducting an all-mailed ballot election to consider various factors in determining the location of vote centers. AB 59 directs a county elections official conducting an all-mailed ballot election to consider a vote center location on a public or private university or college campus.

*(AB 59 amends Sections 4005 and 12283 of the Elections Code, relating to elections.)*

*AB 963 – Enacts The Student Civic And Voter Empowerment Act, Requiring Public Postsecondary Educational Institution To Distribute Voter Information To Students At Each Campus.*

SB 963 requires the Secretary of State, in partnership with the California Community Colleges, the California State University, and the University of California, to conduct a program known as the Student Civic and Voter Empowerment Act

During the first month of each academic semester or quarter, each campus of the California Community Colleges and the California State University must, and the University of California is requested to, distribute campus-wide emails to all students providing the following information:

- National Voter Registration Day, held annually on the fourth Tuesday in September.
- The last day to register to vote online or to register to vote by mail or in person.
- The date when a county may begin to offer early voting at the office of the elections official or at a satellite location and a statement that the date, times, and locations for early voting and conditional voter registration may be confirmed on the internet website of the Secretary of State or at the county elections office.
- The primary and general election dates.
- A statement that a voter may apply to vote by mail at any time until after the seventh day prior to an election, and that a vote by mail voter may vote in person at the office of the county elections official or at a satellite location.
- A link to the internet web page for the Secretary of State's Students Vote Project.

One month before each statewide election, each campus of the California Community Colleges and the California State University must, and the University of California is requested to, email

students an internet website address link or URL link furnished by the Secretary of State's office and the following election information:

- The Secretary of State's web page for online voter registration.
- The Secretary of State's website address for election information.
- The Secretary of State's website address for the most current voter information guide.
- The Secretary of State's website address for the voter registration status tool.
- A disclaimer stating:
  - That the civic and election information provided applies to the county where the campus is located.
  - That election information varies by county.
  - That recipients of the email are encouraged to check the website containing the Secretary of State's voter registration status tool to find election information for the county where the recipient's voter registration is active.

Each campus of the California Community Colleges and the California State University must, and the University of California is Requested must include in academic calendars voter registration and election dates/deadlines and post social media reminders to students at least one day beforehand.

Each campus of the California Community Colleges and the California State University must, and the University of California is Requested, Designate one nonpartisan Civic and Voter Empowerment Coordinator per campus. The Coordinator shall:

- Ensure each campus holds a minimum of three election outreach.

- An outreach event shall occur within the final 30 days preceding a statewide primary and general election;
- Students must be invited to participate in outreach events;
- All events must be sponsored by student organizations;
- Develop a Civic and Voter Empowerment Action Plan that shall be shared with the Secretary of State.

This bill also requires the Secretary of State to develop a Students Vote Project to implement the Student Civic and Voter Empowerment Act, and to provide the California Community Colleges, the California State University, and University of California with materials to implement the requirements of the Act.

*(AB 947 adds Sections 66850, 66851, and 66852 to the Education Code and Section 2148.5 to the Elections Code.)*

## FEES

### *AB 1504 – Requires Student Representation Fees.*

Current law provides that a governing body of a student body association of a California community college may order an election to establish a student representation fee of \$2.00 per semester. This bill requires officials at each community college to collect a \$2.00 fee if the college has an established student body association. The bill eliminates the authorization for a student election to terminate the fee. This bill also provides that a community college shall provide a student with the means to refuse to pay the student representation fee.

Previous law allowed a student body association that adopted a student representation fee before January 1, 2014 to retain the authority to receive \$1.00 of the \$2.00 fee. This bill removes that provision and requires all colleges to expend \$1.00 of

the \$2.00 fee to establish and support a statewide community college student organization. AB 1504 also adds a goal for this organization which is supporting student participation and engagement in statewide higher education policy and advocacy activities.

*(AB 1504 amends Section 76060.5 of the Education Code.)*

## FINANCIAL AID

### *AB 2 – Makes Students With Postsecondary Degrees Ineligible For A Fee Waiver.*

Current law authorizes a community college to waive some or all of the fees for two academic years for first-time students who are enrolled full-time and submit either a Free Application for Federal Student Aid (“FAFSA”) or a California Dream Act application. AB 2 provides that students who have previously earned a degree or certificate from a post-secondary educational institution are ineligible for the fee waiver. The bill also amends the definition of full-time to allow students enrolled in less than 12 units to qualify if they have been certified as full-time by a staff person.

*(AB 2 amends Section 76396.3 of the Education Code.)*

### *AB 697 – Requires Educational Institutions To Report Preferential Treatment Based On Relationships To Donors And Alumni As A Condition Of Receiving Financial Aid From The Cal Grant Program.*

In response to the recent college admissions scandal, the legislature passed, and the Governor signed into law AB 697 as an effort “to bring more fairness and transparency to college admissions in the state.”

Under existing law, the Cal Grant Program,

establishes the Cal Grant Awards under the administration of the Student Aid Commission, and establishes eligibility requirements for awards under these programs for participating students attending qualifying postsecondary educational institutions. Existing law requires each participating postsecondary educational institution to annually report specified information regarding its undergraduate programs in order to be a qualifying institution.

AB 697 requires, on or before June 30, 2020, and on or before June 30 of every year thereafter through 2024, the trustees, the regents, and the appropriate governing bodies of each independent institution of higher education that is a qualifying institution as defined under the Cal Grant Program to report to the appropriate budget subcommittees and policy committees of the Legislature whether their respective institutions provide any manner of preferential treatment in admission to applicants on the basis of their relationships to donors or alumni of the institution. If the institution provides such preferential treatment, AB 697 requires the institution to report the following specified admissions and enrollment information regarding these applicants for the academic year commencing in the previous calendar year:

- (1) The number of applicants who did not meet the institution's admission standards that apply to all applicants, but who were offered admission.
- (2) The number of applicants reported pursuant to paragraph (1) who accepted admission to the institution.
- (3) The number of applicants reported pursuant to paragraph (2) who enrolled at the institution.
- (4) The number of applicants who met the institution's admission standards that apply to all applicants and who were offered admission.
- (5) The number of applicants reported pursuant to paragraph (4) who accepted admission to the institution.

- (6) The number of applicants reported pursuant to paragraph (5) who enrolled at the institution.

*(AB 697 adds Section 66018.5 to the Education Code, relating to postsecondary education.)*

### ***AB 703 – Provides For Waiver Of Fees Or Tuition For Exonerated Persons.***

This bill prohibits the Board of Governors of the California Community Colleges, the Trustees of the California State University, and, the Regents of the University of California, from collecting mandatory system wide tuition and fees from students that have been exonerated of crimes by writ of habeas corpus or pardon, if the student completes a Free Application for Federal Student Aid and meets the financial need requirements established for Cal Grant A awards. An institution shall not waive fees for more than six years. The waiver shall only apply to state residents.

*(AB 703 adds Section 69000 to the Education Code.)*

### ***AB 853 – Allows Golden State Scholarshare College Savings Trust To Make Payments To Certain Third Parties.***

Existing law allows the Scholarshare trust to enter into participation agreements on behalf of beneficiaries pursuant to the terms set forth in Education Code Section 69983. Additionally, the law allows the Scholarshare trust to make payments to institutions of higher education using participation agreements. This bill allows the Scholarshare trust to make payments to other third parties pursuant to participation agreements on behalf of beneficiaries.

*(AB 853 amends Sections 69981 and 69986 of the Education Code.)*



***AB 943 – Authorizes Funding For Emergency Student Financial Assistance.***

This bill allows community college districts to use funding for the Student Equity and Achievement Program for emergency student financial assistance for eligible students. This funding shall be used to help eligible students to overcome unforeseen financial challenges that would directly impact the student's ability to continue in the student's course of study. An "eligible student" is defined as one who has experienced an unforeseen financial challenge, who is making satisfactory academic progress, as defined by the college the student attends, and who is at risk of not persisting in the student's course of study due to the unforeseen financial challenge. "Emergency student financial assistance" includes, but is not limited to, direct aid in the form of emergency grants, housing and food assistance, textbook grants, and transportation assistance.

*(AB 943 amends Section 78220 of the Education Code.)*

***AB 1090 – Exempts Surviving Spouses And Children Of Law Enforcement Or Fire Suppression Employees From Mandatory Fees.***

Under this bill, the spouse or child of a deceased person whose principal duties consisted of active law enforcement service or active fire suppression and prevention, is exempt from mandatory system wide tuition and fees and mandatory campus-based fees collected by the Board of Directors of the Hastings College of the Law, the Board of Governors of the California Community Colleges, the Trustees of the California State University, and the Regents of the University of California. The spouse and child are only exempt from fees if the deceased was a resident of the state, employed by or contracted with a public agency, and the deceased died as a result of their duties.

*(AB 1090 amends Section 68120 of the Education Code.)*

***AB 1645 – Allows For Postponement Of Financial Aid Application Deadlines For Qualifying Events.***

Starting in the 2020–21 academic year the California Community Colleges and the California State University must, and the University of California is requested to, designate a Dreamer Resource Liaison at each of their respective campuses to streamlining access to all available financial aid and academic opportunities.

The Dreamer Resource Liaison shall be knowledgeable in available financial aid, social services, state-funded immigration legal services, internships, externships, and academic opportunities for all students, including undocumented students.

The space in which the Dreamer Resource Liaison is located shall be a Dream Resource Center. Campuses may house Dream Resource Centers within existing student service or academic centers.

The Trustees of the California State University, the Board of Governors of the California Community Colleges, and the Regents of the University of California may seek and accept on behalf of the state any donation whenever the gift will aid in the creation and operation of Dream Resource Centers.

*(AB 1645 amends Section 66021.8 of the Education Code.)*

***AB 1774 – Allows Postponement Of Financial Aid Application Deadlines For Qualifying Events.***

This bill provides that if the Student Aid Commission receives a formal request from the superintendent of a school district or community college district or from the president or chancellor of a California institution of higher education that receives state funds for student financial assis-

tance, the Commission may grant a postponement of an application deadline for up to 30 calendar days. This applies for any financial aid program administered by the Commission. The Commission may grant the postponement if a qualifying event prevented students from successfully meeting the application deadline. A qualifying event includes a natural disaster, state of emergency, a labor action, and other events that have an adverse impact on a student's ability to meet the deadline that are out of the student's control.

The Commission must establish procedures including a standard application form to request an extension.

This bill is an urgency statute and went into immediate effect on October 4, 2019.

*(AB 1774 adds Section 69513.2 to the Education Code.)*

***SB 150 – Makes Revisions To The Chafee Grant Program Including Requiring Student Recipients Of Chafee Grant Awards To Make Satisfactory Academic Progress.***

Under existing law, the Chafee Educational Training and Vouchers Program provides financial aid to current and former foster youth attending qualifying postsecondary educational institutions. The Student Aid Commission is the state agency primarily responsible for the administration and coordination of student financial aid programs, including the Chafee Educational Training and Vouchers Program.

SB 150 allows the Commission to make initial Chafee Grant award offers totaling up to 200 percent of the total state and federal program funding available for all awards. Each year, the commission must determine the number of initial awards offered, based on the historic acceptance rate of initial awards and the size of the awards, so as not to exceed the total amount of available funding for the full award cycle. The Commission must make initial award offers contingent on available

funding and may adjust or withdraw and award or offer before payment. The Commission must inform recipients of award offers that the offer may be withdrawn or adjusted and awards are payable to students only to the extent funding is available.

SB 150 requires the California Community Colleges and The California State University, and requests the University of the California, to provide students information regarding available support services on campus and the process for completing an educational plan. The information must strongly encourage grant recipients to avail themselves of campus support services and processes for completing an education plan. The applicable educational institution shall provide this information upon release of the first grant award payment to each student.

SB 150 provides that if a student fails to demonstrate satisfactory academic progress for two consecutive academic semesters or three consecutive quarters, the student must meet with an appropriate college staff member to develop a plan for improving academic progress or to update an existing plan to ensure satisfactory progress. The educational institution where the student is enrolled defines satisfactory academic progress. If a student with a plan for improving academic progress fails to meet satisfactory academic standards for a third consecutive semester or fourth consecutive quarter, the student must meet with an appropriate college staff member to update the plan.

Once a plan is developed or updated, the educational institution shall release the remaining Chafee grant funds for the next applicable semester. If a student fails to update their plan, or fails to meet satisfactory academic progress standards for a fourth consecutive semester or fifth consecutive quarter, they shall lose Chafee grant eligibility.

An appropriate college staff member to assist

a student with creating a plan includes an academic counselor, a Homeless and Foster Student Liaison, an Extended Opportunity Programs and Services counselor, a Cooperating Agencies Foster Youth Educational Support Program counselor, a Disabled Student Programs and Services counselor, another campus-based foster youth support program staff member, or another appropriate advisor.

A student who loses eligibility for the Chafee grant may appeal the loss of the grant during any subsequent semester, quarter, or term following the loss of eligibility. The institution shall provide a student written notice of the process of appealing the loss of a Chafee grant. The institution must provide this notice even if it does not offer an appeal process for loss of other forms of financial aid. An institution must automatically reinstate a student's Chafee grant eligibility upon appeal if any of the following applies:

- The student achieves a 2.0 GPA during the previous semester or quarter, or cumulative GPA of 2.0, even if the student did not meet the institution's satisfactory academic progress requirements;
- The student demonstrates the existence of an extenuating circumstance that impeded their successful course completion in the past, but that the student has addressed so that they are likely to achieve satisfactory academic progress in the future; or
- The student provides evidence of engagement with a supportive program, on or off campus, that is assisting the student to make continued academic process.

Thus, if the student can demonstrate any of the above, the institution must reinstate Chafee grant eligibility. There is no discretion not to do so.

If a student loses a Chafee grant for failure to make satisfactory academic progress, the student is eligible for a Chafee grant if he enrolls in another qualifying institution if he or she dis-enrolls for

one or more semesters or quarters.

SB 150 provides that a student may not receive a Chafee grant for more than five years. The five years need not be consecutive.

*(SB 150 amends Section 69519 of the Education Code.)*

### ***SB 354 – Amends DREAM Loan Program Statutes To Make Students Participating In Professional And Graduate Programs Eligible For DREAM Loans.***

Previous law established the California DREAM Loan Program, which provides a student attending a participating campus of the University of California or California State University with a loan for students who are exempt from paying nonresident tuition and meet other specified requirements. Previous law limited DREAM loan eligibility to students who are enrolled in an "instructional program" which is defined as a program of study that results in the award of a baccalaureate degree or undergraduate certificate, or for coursework leading to a professional degree for which no baccalaureate degree or undergraduate degree is awarded.

SB 354 expands DREAM loan eligibility to students enrolled in a program of study leading to a professional or graduate degree, including a teaching credential, the prerequisite for which is a baccalaureate degree or undergraduate degree. This provision is effective commencing with the 2020-2021 academic year.

Each participating campus of the University of California or California State University shall determine the proportion of DREAM Loan Program funding used for instructional programs and graduate programs at its discretion. However, they must give priority to loans for instructional programs.

(SB 354 amends Sections 70032, 70033, and 70034 of the Education Code.)

## HEALTH SERVICES

### *SB 24 – Requires Health Centers Of The University Of California And The California State University To Offer Onsite Abortion By Medication Techniques If Sufficient Private Moneys Are Raised To Support The Program.*

SB 24 requires public university health centers to offer abortion onsite by medication techniques beginning on January 1, 2023. SB 24 defines “public university” as the University of California and the California State University. The bill provides that the Commission on the Status of Women and Girls established by Government Code Section 8241 shall administer the College Student Health Center Sexual and Reproductive Health Preparation Fund. SB 24 establishes the Fund for the purposes of providing private monies in the form of direct allocations to the University of California and the California State University to support medication abortion readiness at each public university health center. “Medication abortion readiness” includes, but is not limited to, assessment of each individual clinic to determine facility and training needs before beginning to provide abortion by medication techniques, purchasing equipment, making facility improvements, establishing clinical protocols, creating patient educational materials, and training staff.

The Commission on the Status of Women and Girls shall use the College Student Health Center Sexual and Reproductive Health Preparation Fund to do all of the following:

- Allocate \$200,000 per campus to the University of California and the California State University. Of these funds, each university system shall provide \$200,000 to each public university health center to pay for the cost, both direct and indirect, of medication abortion readiness. Allowable expenses include, but are not limited to:
  - Purchase of equipment used in the provision of abortion by medication techniques;
  - Facility and security upgrades;
  - Costs associated with enabling the campus health center to deliver telehealth services;
  - Costs associated with training staff in the provision of abortion by medication techniques; and
  - Staff cost reimbursement and clinical revenue offset while staff are in trainings.
- Allocate \$200,000 to both the University of California and the California State University to pay for the cost, both direct and indirect, of medication abortion readiness for each university system. Allowable expenses include, but are not limited to:
  - Providing 24-hour, backup medical support by telephone to patients who have obtained abortion by medication techniques at a public university health center;
  - One-time fees associated with establishing a corporate account to provide telehealth services; and
  - Billing specialist consultation.
- Maintain a system of financial reporting on all aspects of the fund.
- Support implementation of medication abortion readiness by public university student health centers by measures including, but not limited to:
  - Assisting student health centers with planning and budgeting;
  - Coordinating with student health centers to identify training and other resources;
  - Serving as a liaison between each public university system, public university stu-

dent health centers, and the Legislature; and

- Collecting, compiling, and analyzing information from public university student health centers to meet Commission reporting requirements.
- Pay direct and indirect costs to administer SB 24

SB 24's requirements apply only if \$10,290,000 in private funds are made available to the College Student Health Center Sexual and Reproductive Health Preparation Fund after January 1, 2020. SB 24 prohibits the Legislature from appropriating General Fund monies may \ to support the Fund or the Commissions on the Status of Women and Girls' costs. SB 24 does not require public universities to use general fund moneys or student fees for medication abortion readiness. It also does not require public university health centers to bill public programs or health insurance providers to support the costs of providing abortion by medication techniques onsite. However, upon request from a public university student health center, the Commission on the Status of Women and Girls shall assist and advise on potential pathways for the student health center to bill public programs and health insurance programs to help pay for the costs of providing abortion by mediation techniques.

*(SB 24 adds Sections 99250 and 99251 to the Education Code.)*

## INSTRUCTION

### *AB 239 – Extends Multi-Criteria Screening Measures For College Registered Nursing Programs.*

Current law allows community colleges to admit students using a random selection process or a combination of a multi-criteria screening process and random selection until January 1, 2020 for registered nursing programs with applicants exceeding their capacity. AB 239 extends this law until January 1, 2025.

*(AB 239 amends Section 78261.5 of the Education Code.)*

### *AB 845 – Requires Medical Board Of California To Consider Including Courses In Maternal Health Disorders Continuing Education For Health Care Practitioners.*

AB 845 requires the Medical Board of California to consider including courses in maternal mental health disorders to continuing education requirements for licensed health care practitioners.

*(AB 845 adds Section 2196.9 of the Business and Professions Code.)*

### *AB 1308 – Allows Qualified Students To Taste Alcoholic Beverages For Culinary And Hotel Management Programs.*

This bill allows a qualified student to taste alcoholic beverages while enrolled in a hotel management or culinary arts program at a qualified academic institution. A qualified student is a student enrolled in an academic institution that is at least eighteen years old. A qualified academic institution is defined as an institution that has established an associate's degree or bachelor degree program in hotel management, culinary arts, enology, or brewing.

*(AB 1308 adds section 25668 of the Education Code.)*

## INTERNSHIPS

### *AB 595 – Allows Students To Use An Individual Tax Identification Number For Internships.*

This bill allows a student enrolled in a community college class for an apprenticeship-training program or an internship-training program to use an individual tax identification number for any program required background check if the stu-

dent does not have a social security number.

*(AB 595 adds Section 79149.25 of the Education Code.)*

## SEXUAL VIOLENCE/SEXUAL ASSAULT

### *AB 381 – Sets Forth Requirements For Programs And Services Addressing Sexual Violence, Domestic Violence, Dating Violence, And Stalking.*

Existing law requires governing boards of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions, , in order to receive state funds for student financial assistance, to enter into memoranda of understanding, agreements, or collaborative partnerships with existing on-campus and community-based organizations, to the extent feasible, to refer students for assistance or make services available to students, including counseling, health, mental health, victim advocacy, and legal assistance, and including resources for the accused. Current law includes rape crisis centers as one of the types of organizations with which colleges can partner with to fulfill this requirement. AB 381 adds domestic violence centers as another type of organization with which a college can partner with.

Existing law further requires independent postsecondary institutions, as a condition of receiving state funds for student financial assistance, to implement comprehensive prevention and outreach programs addressing sexual violence, domestic violence, dating violence, and stalking. Outreach programming is required to be included as part of every incoming student’s orientation.

AB 381 provides that this required outreach programming for new students must include informing students about all of the following:

- The warning signs of intimate partner and dat-

ing violence.

- Campus policies and resources relating to intimate partner and dating violence.
- Off-campus resources and centers relating to intimate partner and dating violence.
- A focus on prevention and bystander intervention training as it relates to intimate partner and dating violence.

AB 381 provides that informing students about “intimate partner and dating violence” must include information about violence that occurs between individuals within a current or previous intimate or dating relationship.

This outreach programming must be provided to all incoming students, including graduate, transfer, and international students, and give special consideration to the different needs, interactions, and engagements with campus of those student groups.

*(AB 381 amends Section 67386 of the Education Code.)*

### *AB 1000 – Requires Annual Review Of Procedures Related To Sexual Assault.*

This bill requires the governing board of a community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, and the Regents of the University of California to annually review and update their procedures related to sexual assault in collaboration with sexual assault counselors and student, faculty, and staff representatives.

*(AB 1000 amends Section 67385 of the Education Code.)*

## STUDENT ATHLETES

### *AB 1573 – Authorizes A Student Athlete To Enter Into A Contract.*

Existing law provides for a Student Athlete Bill of Rights that applies to Postsecondary institutions that maintain intercollegiate athletic programs.

AB 1573 adds to the Student Athlete Bill of Rights: (1) provisions authorizing institutions of higher education to establish a degree completion fund, in accordance with applicable rules and bylaws of the governing body of the institution and applicable rules and bylaws of any athletic association, as defined, of which the institution is a member, (2) provisions requiring institutions of higher education to prepare notices detailing specified rights of student athletes and contact information for filing complaints under the Student Athlete Bill of Rights, and (3) provisions prohibiting institutions of higher education from intentionally retaliating, as defined, against a student athlete for any of the following actions with respect to student athlete rights granted under any applicable statute, regulation, or policy; making or filing a complaint, in good faith, about a violation; testifying or otherwise assisting in any investigation into violations; or opposing any practices that the student athlete, in good faith, believes are a violation. AB 1573 does not restrict the authority of an institution of higher education to impose interim measures or, upon a finding of responsibility, permanent consequences on a student athlete who has been accused of sexual harassment or violence.

*(AB 1573 amends Section 67451 and of, adds Sections 67452.3, 67454, and 67455 to the Education Code, relating to collegiate athletes.)*

### *SB 206 – Authorizes Payments To College Athletes For The Use Of Their Name, Image Or Likeness.*

Existing law, known as the Student Athlete Bill of Rights, requires intercollegiate athletic programs at 4-year private universities or campuses of the

University of California or the California State University that receive, as an average, \$10,000,000 or more in annual revenue derived from media rights for intercollegiate athletics to comply with prescribed requirements relating to student athlete rights.

Commencing January 1, 2023, AB 206 prohibits California postsecondary educational institutions except community colleges, and every athletic association, conference, or other group or organization with authority over intercollegiate athletics, from providing a prospective intercollegiate student athlete with compensation in relation to the athlete's name, image, or likeness, or preventing a student participating in intercollegiate athletics from earning compensation as a result of the use of the student's name, image, or likeness or obtaining professional representation relating to the student's participation in intercollegiate athletics. AB 206 further prohibits an athletic association, conference, or other group or organization with authority over intercollegiate athletics from preventing a postsecondary educational institution other than a community college from participating in intercollegiate athletics as a result of the compensation of a student athlete for the use of the student's name, image, or likeness.

In addition, AB 206 requires professional representation obtained by student athletes to be from persons licensed by the state. AB 206 specifies that athlete agents must comply with federal law in their relationships with student athletes. AB 206 further prohibits the revocation of a student's scholarship as a result of earning compensation or obtaining legal representation as authorized under this bill.

AB 206 also prohibits a student athlete from entering into a contract providing compensation to the athlete for use of the athlete's name, image, or likeness if a provision of the contract is in conflict with a provision of the athlete's team contract. AB 206, however, prohibits a team contract from preventing a student athlete from using the

athlete's name, image, or likeness for a commercial purpose when the athlete is not engaged in official team activities, as specified.

These provisions set forth in AB 206 go into effect on January 1, 2023.

Additionally, this bill would require the Chancellor of the California Community Colleges to convene a community college athlete name, image, and likeness working group composed of individuals appointed on or before July 1, 2020, as specified. The bill would require the working group to review various athletic association bylaws and state and federal laws regarding a college athlete's use of the athlete's name, image, and likeness for compensation and, on or before July 1, 2021, submit to the Legislature and the California Community College Athletic Association a report containing its findings and policy recommendations in connection with this review.

*(SB 206 adds Section 67456 to, and adds and repeals Section 67457 of, the Education Code, relating to collegiate athletics.)*

## STUDENT SERVICES

### ***AB 1278 – Requires Notice Of Certain Public Services To Be Included On Websites.***

This bill requires California State University and the California Community Colleges, and requests each campus of the University of California to include a link to information on, public services and programs, including the CalFresh program, county or local housing resources, and county or local mental health services on the website-based account for an enrolled student.

*(AB 1278 adds Section 66027.6 to the Education Code.)*

### ***SB 173 – Requires The Department Of Social Services To Create A Standardized Form To Be Used By Community Colleges And Universities To Verify Student Potential Eligibility For CalFresh.***

Existing law provides that students enrolled in college or other institutions of higher learning are not eligible for CalFresh supplemental nutrition assistance benefits unless they meet one of several exemptions, including participation in specified employment training programs. Existing law also provides that certain educational programs must be considered employment training programs for the purpose of determining eligibility for CalFresh under the employment training program exemption. The Department of Social Services maintains and regularly updates a list of programs that meet the employment training exemption.

This bill requires the Department of Social Services to create a standardized form to for community colleges and universities to use to verify that a student is approved and anticipating participation in state or federal workstudy for the purpose of assisting county human services agencies in determining the student's potential eligibility for CalFresh. The Department of Social Services must create the form in consultation with the office of the Chancellor of the California Community Colleges, the office of the Chancellor of the California State University, University of California Chancellors' offices, and county human services agencies. In addition, community colleges and universities must distribute the form to all students approved for state and federal workstudy, to the extent such distribution is practicable.

*(SB 173 amends Section 18901.11 of the Welfare and Institutions Code.)*



***SB 366 – Requires The Trustees Of The California State University To Provide Information About Cyberbullying To Students At All Campuses During Established Campus Orientations, And Requests That The Regents Of The University Of California Do So.***

SB 366 requires the Trustee of the California State University to provide students with educational and preventative information about cyberbullying to students at all campuses as part of established campus orientations. SB 354 also requests that the Regents of the University of California provide the same information.

*(SB 366 adds Section 66302.5 to the Education Code.)*

***SB 467 – Requires Campuses Of The California State University, And Requests Campuses Of The University Of California, To Post Information Regarding Costs Of Attendance On Their Websites.***

On or before February 1, 2020, the campuses of the California State University are required to, and the campuses of the University of California are requested to, post information about the cost of attendance on their websites. These must be the same websites that provide cost estimates of institutional housing and meal plans pursuant to Education Code Section 69503.6. The Legislature intends the requirement to help prospective students and their families more accurately calculate the cost of attendance. The information includes the following:

- Information about the market cost of one- and two-bedroom apartments and of one-person bedrooms in private houses in the areas surrounding the campus where its students commonly reside.
  - Separate estimates of other cost-of-living categories, including but not limited to:
    - The estimated cost of living at home or in a permanent residence, such as with a parent;
    - The estimated cost of food;
    - The estimated cost of transportation;
    - The estimated cost of books and supplies;
    - The estimated cost of miscellaneous expenses;
    - The estimated cost of tuition;
    - The estimated cost of mandatory student fees; and
    - A description of the data sources and methods used to calculate its estimates for each cost of living category.
- A statement emphasizing both of the following:
  - All cost estimates reflect estimated costs for a typical student, but actual costs can vary considerably for individual students; and
  - The university strongly encourages prospective students and their families to consider how their own costs might differ from those given in the estimates, including by seeking out cost of attendance estimates from other sources and by considering whether they will face other costs that the university has not listed in the estimate categories or how their veteran status might affect costs.

*(SB 467 amends Section 66014.2 of the Education Code.)*

## **STUDENTS - BILLS APPLICABLE TO K-12 PUPILS AND COLLEGE STUDENTS**

### **SEXUAL HARASSMENT, ASSAULT, AND DOMESTIC VIOLENCE**

#### ***AB 543 – Requires A Copy Of The Student Sexual Harassment Policy Be Provided As Part Of An Orientation Program For Continuing Students.***

Existing law, as set forth in Education Code section 231.5, requires each educational institution in the state to have a written policy on sexual harassment and to display that policy in a prominent location, as defined, in the main administrative building or other area of the educational institution's campus or schoolsite. Existing law further requires a copy of that policy, as it pertains to students, to be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

AB 543 further requires that a copy of that sexual harassment policy be provided as part of an orientation program conducted for continuing students, at the beginning of each quarter, semester, or summer session, as applicable. Thus, pursuant to AB 543, when schools conduct an orientation program for continuing students, the orientation program must include a copy of the School's student sexual harassment policy.

AB 543 further requires each schoolsite in a school district, county office of education, or charter school, serving pupils in any of grades 9 through 12, to create a poster that notifies students of the sexual harassment policy and to prominently and conspicuously display the poster in each bathroom and locker room at the schoolsite. The governing board shall have full discretion to select appropriate public areas to display the poster such as classrooms, hallways, gyms, auditoriums, and cafeterias. The poster

shall be at least 8.5 by 11 inches and use at least 12 point font. It must include the procedures for reporting harassment, the contact information of an appropriate schoolsite official, and the rights of the reporting pupil, the complainant, and the respondent. The poster shall also describe the responsibilities of the school.

*(AB 543 amends Section 231.5 of, and to add Section 231.6 to the Education Code, relating to education.)*

#### ***AB 1510 – Extends The Statute Of Limitations For Civil Actions Related To Sexual Assault.***

Existing law sets the time for commencement of any civil action for recovery of damages suffered as a result of sexual assault, as defined, 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. Existing law provides that this limitation applies to any action of that type that is commenced on or after January 1, 2019.

AB 1510, which went into effect on October 2, 2019, clarifies that it is not necessary that a criminal prosecution or other proceeding have been brought as a result of the sexual assault or, if a criminal prosecution or other proceeding was brought, that the prosecution or proceeding resulted in a conviction or adjudication, in order for a plaintiff to bring a civil action.

AB 1510 revives claims for damages of more than \$250,000 arising out of a sexual assault or other inappropriate contact, communication, or activity of a sexual nature by a physician occurring at a student health center between January 1, 1988, and January 1, 2017, that would otherwise be barred prior to October 2, 2019, solely because the applicable statute of limitations has or had expired, and

authorizes a cause of action to proceed if already pending in court on October 2, 2019, and if not filed by October 2, 2019, to be commenced between October 2, 2019, and December 31, 2020.

*(AB 1510 amends Section 340.16 of the Code of Civil Procedure, relating to sexual misconduct.)*

***SB 316 – Requires Educational Institutions Who Issue Pupil Identification Cards To Students To Include The Telephone Number For The National Domestic Violence Hotline On The Card.***

Existing law requires a public school, including a charter school, that serves pupils in any of grades 7 to 12, inclusive, that issues pupil identification cards, and a public or private institution of higher education that issues student identification cards, to have printed on the identification cards the telephone number for the National Suicide Prevention Lifeline, and authorizes those schools to have printed on the identification cards certain other suicide-prevention and emergency-response telephone numbers.

Commencing October 1, 2020, SB 316 additionally requires a public school, including a charter school, that serves pupils in any of grades 7 to 12, inclusive, that issues pupil identification cards to have printed on either side of the identification cards the telephone number for the National Domestic Violence Hotline, which is 1-800-799-7233.

SB 316 also requires that, commencing October 1, 2020, a public or private institution of higher education that issues student identification cards to have printed on the identification cards the telephone number for the National Domestic Violence Hotline or a local domestic violence hotline.

*(SB 316 amends Section 215.5 of the Education Code, relating to pupil and student safety.)*

## STUDENT ATHLETES

***AB 1518 – Authorizes A Student Athlete To Enter Into A Contract With An Athlete Agent Without Losing Their Status As A Student Athlete.***

Existing law, the Miller-Ayala Athlete Agents Act, regulates various activities of an athlete agent in representing student athletes and professional athletes, including contact with athletes, contract negotiations, and required disclosures with the Secretary of State. A student athlete means any individual admitted to or enrolled as a student, in an elementary or secondary school, college, university, or other educational institution if the student participates, or has informed the institution of an intention to participate, as an athlete in a sports program where the sports program is engaged in competition with other educational institutions.

Existing law removes an individual's status as a student athlete, if they enter into a valid agent contract, a valid endorsement contract, or a valid professional sports services contract. Existing law prohibits an athlete agent or their representative from offering or providing money or any other thing of benefit or value to a student athlete. An "athlete agent" means any person who, directly or indirectly, recruits or solicits an athlete to enter into any agent contract, endorsement contract, financial services contract, or professional sports services contract, or for compensation procures, offers, promises, attempts, or negotiates to obtain employment for any person with a professional sports team or organization or as a professional athlete.

AB 1518 authorizes a student athlete to enter into a contract with an athlete agent without losing their status as a student athlete, if: (1) the contract complies with the policy of the student athlete's educational institution and the bylaws of the National Collegiate Athletic Association; and (2) includes a provision that the contract terminates if the student chooses to not seek employment with a professional sports team or organization as a professional athlete, and instead returns to school.

AB 1518 also authorizes an athlete agent or their representative to offer or provide money or any other thing of benefit or value to a student athlete if it is authorized and complies with the policy of the student athlete's educational institution and the bylaws of the National Collegiate Athletic Association.

AB 1518 requires an athlete agent who provides money or any other thing of value to a student athlete to file an itemized report of those payments with the athletic director, or their designee, of the student athlete's educational institution or the educational institution where the student athlete intends to enroll, as specified. AB 1518 does not preclude an educational institution from adopting and enforcing stricter policies, rules, or regulations addressing athlete agent solicitations or athlete agent interactions with student athletes attending their institution.

*(Amends Sections 18895.2, 18897.6, and 18897.73 of, and to add Section 18897.74 to, the Business and Professions Code, relating to athletes.)*

## CHARTER SCHOOLS

### CHARTER SCHOOL PETITION REQUIREMENTS

#### *AB 1505 – Revises Process Relating To The Submission And Approval Of Charter Petitions.*

#### **Revises Criteria for Approval or Denial of a Charter Petition**

AB 1505 provides that when the State Board of Education revokes a charter school's charter or other appropriate action against a charter school, the State Board may not waive any requirements of Section 47604.5 regarding revocation. In addition, the State Board may not waive any of the requirements of Section 47605.

AB 1505 provides that if a charter school proposes to expand operations at one or more additional sites or for one or more grade levels, it must request a material revision of its charter from the chartering school district. In determining whether to grant a material revision for the expansion of grade levels of a charter school, the district must make the decision pursuant to the requirements for approval of a charter school in Section 47065, subdivision (c).

In addition to other criteria, this bill requires a district to review whether it is satisfied that that granting the charter school is consistent with the interests of the community in which the school is proposing to locate and the academic needs of the pupils the charter school proposes to serve.

Existing law requires charter schools to describe how they will achieve a balance of pupils of different races reflective of the district's general population. This bill requires charter schools to also describe how they will achieve a balance of special education pupils and English learners.

Current law provides reasons a district may deny a petition. This bill adds that a petition may be denied if a charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. The district must include a consideration of the fiscal impact of the proposed charter school in its analysis of this factor. The district must prepare a written factual finding that details specific facts and circumstances that analyze and consider two factors: (1) the extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings; and (2) whether the proposed charter school would duplicate a program currently offered within the district and the existing program has capacity for the pupils to be served within reasonable proximity to where the charter school intends to locate. A district can also deny a petition on the basis that it is not positioned to absorb the fiscal impact of the proposed charter school. The district can satisfy this factor if it has a qualified interim

certification and the county office certifies that approving the charter school would result in the district receiving a negative certification.

AB 1505 requires a charter petition to provide the names and relevant qualifications of all persons whom the petitioner nominates to serve on the governing body of the charter school if the charter school is to be operated by a nonprofit public benefit corporation.

### **Changes Timeline for Approval or Denial of a Charter Petition**

Existing law requires that no later than 30 days after receiving a charter school petition the school board shall hold a public hearing to consider support for the charter petition. This bill changes the requirement to be within 60 days instead of 30. Previously, the board was required to grant or deny the petition within 60 days, but this bill changes the requirement to within 90 days.

### **Revises Process for Appeal of Denied Petitions and Makes Appeal to the State Available Only Based on Abuse of Discretion by School District; Removes State Board as a Chartering Authority**

Existing law provides that a petitioner for a charter school may submit a petition to a county board of education if it is rejected by a school district. This bill provides that it must be submitted to the county board of education within 30 days of the denial by the school district. The petition shall be remanded to the school district if it contains materially new terms. Materially new terms do not include minor administrative updates due to changes in circumstances based on the passage of time. The school district has 30 days to grant or deny the petition. If the school district still denies the petition, it can be resubmitted to the county board of education. If there is no independent county board of education, the petitioner can submit their petition to the state board. Additionally, denials by the county board of education can be appealed to the state board within 30 days.

The state board must remand the decision to the school district within 30 days if there are new or material terms. The district has 30 days to grant or deny the petition. If the district denies a petition, the petitioner can appeal to the state board. The district and county office of education have 30 days to submit a written opposition showing they did not abuse their discretion by denying the petition. Upon request, the district and county office of education must prepare a record of the proceedings for the charter school's use in the State Board appeal within 10 business days.

The State Board's Advisory Commission on Charter Schools must hold a public hearing to review the appeal and documentary record. Based on its review, the Commission must make a recommendation to the State Board. The state board shall hear the appeal or summarily deny the appeal based on the documentary record. If the State Board reverses the denial of the charter petition, the State Board shall designate either the school district or the board of education in which the charter school is located as the chartering authority. The State Board may only reverse the denial of the petition if it finds the school district or county office of education's decision constituted an "abuse of discretion." This bill repeals Section 47605.8, which previously provided for the State Board's receipt and denial or approval of a charter petition and represents a significant change in that the State Board will no longer act as the chartering authority for charter schools.

Current law provides that if there is no action by the county board or state board within 120 days the district's decision regarding a charter petition governs. This bill changes the time to 180 days.

This bill provides that a charter school approved by the state board or county board of education is subject to the same requirements related to geographic location as if it received approval from the school district.

This bill provides that a petition to establish a charter must be submitted to the school district

or county office of education within which the charter school's proposed site is located. A charter school operating under a charter approved by the State Board may continue to operate under the authority of the State Board only until the date on which the charter is up for renewal. At that point, the charter school must submit a petition for renewal to the school district within the boundaries of which the charter school is located. If the district denies the renewal petition, the charter school may submit an appeal directly to the State Board, which will follow the procedures for an initial appeal. If the State Board approves the renewal petition, it shall designate either the school district or county board of education as the chartering authority. Subsequent renewals are subject to the same renewals as other charter schools authorized by the chartering authority.

#### **Additional Criteria for Charter Renewals**

This bill also provides that chartering authorities can inspect a charter school at any time. It also provides additional criteria for determining whether or not a district should grant a charter renewal including performance of the charter school on state and local indicators of performance and alternative metrics based on the pupil population served. A chartering authority shall meet with the charter school to determine appropriate alternative metrics. The chartering authority shall notify the school within 30 days of the meeting what alternative metrics will be used.

This bill provides that a chartering authority can request cumulative enrollment data, the percentage of pupils enrolled at any point between the beginning of the school year and census day who were not enrolled at the conclusion of that year, and the average results on the statewide assessments. This data must be used to determine whether a charter should be renewed. The chartering authority must deny renewal if the school is demonstrably unlikely to successfully implement the program in its charter petition. However, charter schools must be provided with 30 days notice to cure the violation.

The chartering authority must not renew a charter if for two consecutive years the charter received the two lowest performance levels school wide for state indicators unless the charter school is taking meaningful steps to fix the problem and there is convincing evidence that the school achieved measurable increases in academic achievement or strong post-secondary outcomes. Chartering authorities shall issue written findings when denying a renewal.

#### **Revises Credentialing and Teacher Assignment Requirements**

This bill provides that a charter school may use local assignment options for the purpose of assigning certificated teachers, in the same manner as a governing board of a school district. Additionally, a charter school shall have authority to request an emergency permit or a waiver from the Commission on Teacher Credentialing for individuals in the same manner as a school district.

This bill also provides that by July 1, 2020, all teachers in charter schools shall obtain a certificate of clearance and satisfy the requirements for professional fitness. Additionally, the Commission on Teacher Credentialing shall include in the bulletins it issues notification to local educational agencies of any adverse actions taken against the holders of any commission documents, notice of any adverse actions taken against teachers employed by charter schools and shall make this bulletin available to all chartering authorities and charter schools.

This bill provides that charter schools that established a site outside the boundaries of a school district but within the county before January 1, 2020 may continue to operate that site until the renewal of the charter petition. In order to continue operating after the renewal the school must obtain approval from the district in which the site is operating and then submit a request for renewal.

This bill provides that if there is a major disaster or emergency in an area that a charter school

operates in the charter school can relocate outside the emergency site for up to five years. Charter schools that were relocated from December 31, 2016 through December 31, 2019 due to an emergency are allowed to return to their original campus locations in perpetuity.

This bill provides that teachers employed by charter schools during the 2019–20 school year shall have until July 1, 2025, to obtain the certificate required for the teacher’s certificated assignment. By June 30, 2022, the Commission on Teacher Credentialing shall conduct a comprehensive study to examine whether existing certificates, permits, or other documents adequately address the needs for noncore, noncollege preparatory courses in all schools.

#### Miscellaneous Provisions

This bill also provides that a charter school can request technical assistance from the chartering authority for a fee that does not exceed the cost of the service.

The bill prohibits the approval of a petition for the establishment of a new charter school offering nonclassroom-based instruction from January 1, 2020, to January 1, 2022.

This bill incorporates changes based on AB 1507 and 1595.

*(AB 1505 amends Section 47604.5, 47605, 47605.4, 47605.6, 47607, 47607.2, 47607.3, 47607.5, and 47632 of the Education Code. It repeals 47605.8 and adds Sections 47605.9, 47607.8, 47612.7 to the Education Code.)*

#### **AB 1507 – Limits School Resource Centers For Charter Schools.**

This bill makes many of the same changes listed in AB 1505 and AB 1595. Additionally, it provides charter schools shall not establish a resource center or other facility that is outside the

school district’s jurisdiction. Charter schools shall notify that chartering authority of the name and location of any resource centers or other facilities. The State Board may not waive these provisions.

Charter schools that were operating resource centers, meeting spaces, or satellite facilities outside the school district’s jurisdiction before January 1, 2020 can continue to operate the facilities until the charter petition must be renewed at which point the charter school must obtain approval in writing from the school district or county office of education in which the facility is located. A non-classroom-based charter school that was granted approval of its petition, that was providing educational services to pupils prior to October 1, 2019, and is authorized by a different chartering authority due to changes in this law shall be considered a continuing charter school.

This bill provides that if a disaster or emergency impacts a charter school facility, the charter school may relocate for up to five years outside the impacted area.

This bill provides that charter schools may establish additional resource centers and facilities within the chartering authority’s jurisdiction if it has obtained written approval from the chartering authority. Charter schools can continue to operate a resource center outside of the chartering authority’s boundaries if the charter school operating the resource center is authorized by and physically located in an adjacent school district with at least 500,000 pupils, the resource center was established before January 1, 2009, and the center serves a population of which at least fifty percent of the pupils are currently or formerly on probation or were formerly incarcerated.

Charter schools located on a federally recognized California Indian reservation or Rancheria or operated by a federally recognized California Indian tribe are exempt from the provisions of the bill.

*(AB 1507 amends Sections 47605, 47605.1, and 60640 of the Education Code.)*

### *AB 1595 – Revises Timelines For Submission Of A Charter School Petitions.*

This bill provides that a charter petition is deemed received by the county board of education for purposes of commencing the timelines when the petitioner submits the petition. The county board of education shall publish all staff recommendations, including the recommended findings, regarding the petition at least 15 days before the public hearing at which the county board of education will either grant or deny the charter. At the public hearing at which the county board of education will either grant or deny the charter, petitioners shall have equivalent time and procedures to present evidence and testimony to respond to the staff recommendations and findings.

This bill incorporates related amendments from AB 1505 and 1507.

*(AB 1595 amends Sections 1900, 35179.6, 47605, 47605.6, 48600, 49550, 51220, 51810, and 52570 of the Education Code.)*

## CHARTER SCHOOL GOVERNANCE

### *SB 126 – Expressly Makes The Brown Act, California Public Records Act, Conflict Of Interest Statutes, And The Political Reform Act Applicable To Charter Schools, With Certain Exceptions.*

Historically, there has been a debate regarding whether certain statutes that apply to public agencies apply to charter schools. SB 126 resolves the debate expressly makes various government transparency and conflict of interest statutes applicable to charter schools or entities managing charter schools (defined as nonprofit benefit corporations that operate a charter consistent with Education Code Section 47604).

- The Ralph M. Brown Act. However, if the

charter school an entity governed by the Bagley-Keene Open Meeting Act (which applies state boards and commissions) operates the charter school, the Bagley-Keene Open Meeting Act shall apply.

- The California Public Records Act.
- Government Code Sections 1090 and following regarding conflicts of interest due to financial interests in contracts; and
- The Political Reform Act (Government Code Section 81000 and following).

SB 126 also contains additional provisions regarding the applicability of each statute to charter schools, as follows:

- Each agency subject to the Political Reform Act must adopt a Conflict of Interest Code pursuant to Government Code section 87300. SB 126 provides a charter school and an entity managing a charter school is considered an “agency” for these purposes and is the most decentralized level for purposes of adopting the Conflict of Interest Code.
- With respect to the Brown Act:
  - The governing body of one charter school shall meet within the physical boundaries of the county in which the charter school is located. Charter schools must establish a two-way teleconference location for meetings schoolsite.
  - The governing body of one nonclassroom-based charter school that does not have a facility or operates one or more resource centers must meet within the physical boundaries of the county in which the greatest number of pupils who are enrolled in that charter school reside. Nonclassroom-based charter schools must establish a two-way teleconference location for meetings at each resource center.
  - For a governing body of an entity manag-



ing one or more charter schools located within the same county, the governing body of the entity managing a charter school shall meet within the physical boundaries of the county in which that charter school or schools are located. The charter school or entity managing the charter school or schools must establish a two-way teleconference location at each schoolsite and resource center.

- For a governing body of an entity that manages two or more charter schools that are not located in the same county, the governing body of the entity managing the charter schools shall meet within the physical boundaries of the county in which the greatest number of pupils enrolled in those charter schools managed by that entity reside. The charter school or entity managing the charter school or schools must establish a two-way teleconference location at each schoolsite and resource center. The governing body of the entity managing the charter schools must audio record, video record, or both, all governing board meetings and post the recordings on each charter school's internet website.
- SB 126 does not limit the authority of a governing body of a charter school and an entity managing a charter school to meet outside the boundaries described in SB 126 if the Brown Act authorizes the meeting.
- A meeting of the governing body of a charter school to discuss items related to the operation of the charter school shall not include a discussion of any item regarding an activity of the governing body that is unrelated to the operation of the charter school.
- Government Code section 1090 regarding conflicts of interest does not disqualify an employee of a charter school from serving as

a member of the governing body of the charter school because of that employee's employment status. This is a departure from how Government Code section 1090 applies to other public agencies to which it is applicable. SB 126 does however require the employee board member to abstain from and refrain from influencing, or attempting to influence, other members with respect matters uniquely applicable to the employee's employment. Thus, if the Board were to take action on the employee's discipline, leaves of absence, request for transfer, or other employee-specific actions, the employee must abstain and refrain from influencing or attempting to influence the other board members.

- If a governing body of a charter school or an entity managing a charter school engages in activities that are unrelated to a charter school, the above listed statutes do not apply to those unrelated activities unless otherwise required by law.

*(SB 126 adds Section 47604.1 to the Education Code.)*

## GOVERNANCE

### COMMUNITY COLLEGE ELECTIONS

#### *AB 1150 – Community College Governing Board Elections.*

This bill provides candidates for election as members of the San Diego Community College District Governing Board or the Grossmont-Cuyamaca Community College District shall file a declaration of candidacy and nominating papers. Candidates shall be proposed by no less than 40 nor more than 60 voters in a trustee area.

*(AB 1150 amends Sections 72035 and 72036.5 of the Education Code.)*

## STUDENT BOARD MEMBERS

### *AB 514 – Allows Student Trustee Members To Vote During The Member’s First Term.*

Under the current law, the Board of Trustees of the California State University includes two California State University students appointed by the Governor for 2-year terms. Previously, student members could not vote at a board meeting during the first year of their terms. AB 514 allows a student member to vote during the student member’s first term.

*(AB 514 amends Section 66602 of the Education Code.)*

### *AB 709 – Requires Student Members Of The Governing Board To Be Appointed To Subcommittees.*

This bill requires a pupil member of a governing board of a school district to be appointed to subcommittees of the governing board, requires a pupil member to be made aware of the time commitment associated with subcommittee meetings, requires pupil members to receive the same materials received by other board members except for closed session items, and allows a pupil member to decline an appointment to a subcommittee.

Additionally, AB 709 provides the governing board of a school district may appoint a pupil to serve as an alternate pupil member who would fulfill all duties and have the same rights as a pupil member if the governing board of a school district determines the current pupil member is not fulfilling their duties. If the governing board of a school district appoints an alternate pupil member, the governing board shall suspend the prior pupil member’s rights and privileges related to service on the governing board. The governing board may also award a pupil elective course credit based on the pupil member services provided.

According to AB 709, pupil members are not considered members of the legislative body for purposes of the Brown Act.

*(AB 709 amends Sections 35012 and Section 35120 of the Education Code.)*

## BUSINESS AND FACILITIES

### BOND MEASURES

### *AB 48 – Places \$15 Billion Bond Measure On March Primary Ballot, Which Would Be Largest School Construction Bond In California History.*

This bill authorizes placing a \$15 billion bond measure to fund the construction and modernization of public education facilities on the March 3, 2020 primary ballot. If passed by the voters, this will be the largest bond measure to support schools in California history. The bill states that of the \$15 billion in bond funding, \$9 billion will go to preschool and K-12 projects. Of that \$9 billion, \$5.2 billion is for modernizing schools, \$2.8 billion is for new construction, \$500 million is for career technical education facilities, and \$500 million is for charter schools. The remaining \$6 billion is reserved for higher education with the community colleges, the California State University system, and the University of California each receiving \$2 billion. The bill also makes a number of changes to the existing School Facilities Program, through which districts apply for bond funding. For example, in place of a first-come, first-served process, these changes require the Office of Public School Construction to prioritize certain applications. Priority projects include those that will address health or safety hazards, assist districts facing financial hardships, or reduce severe overcrowding. This bill also encourages the use of bond funding for broadband internet access, seismic mitigation, and lead abatement projects. Overall, this bill creates the potential for a large influx in funding for school construction, while ushering in a new procedures and priorities for awarding funding.

*(AB 48 amends Sections 14503, 15102, 15106, 15268, 15270, 17070.15, 17070.43, 17070.51, 17070.65, 17071.10, 17071.25, 17071.75, 17072.30, 17072.35, 17073.15, 17073.25, 17074.10, 17074.16, 17074.25, 17075.15, 17077.35, 17078.52, 17078.53, 17078.54, 17078.58, 17078.62, 17219, and 41024 of the Education Code. Adds Sections 17070.415, 17070.54, 17070.56, 17070.57, 17070.59, 17070.75, 17075.10, 17075.20, and new articles commencing with Sections 17077.60, 17078.40, 89776, 92170, and 101200 of the Education Code. Adds new chapters, commencing with Sections 65998.5 and 65999 to the Government Code. Repeals Sections 17070.53, 17070.76, 17070.766, 17070.99, 17072.15, 17072.17, 17072.25, 17072.32, 17074.15, 17074.27, 17075.10, and 17078.66 of the Education Code.)*

## CENSUS

***AB 1666 – California Complete Count Census 2020 Office To Partner With LEAs To Provide Information About Census To Parents And Students.***

This bill requires the California Census Office to partner with local educational agencies to make information about the 2020 census available to parents and students. That information will describe the importance of the census, identify privacy protections and resources provided by the federal Census Bureau, and list community resources available to assist with completing the census questionnaire, and any other information that may increase participation in the census. This bill is intended to increase the Office's ability to reach hard-to-count population groups, who may be more accessible through schools, such as children.

*(Adds Section 65040.17 to the Government Code.)*

## CIVIC CENTER ACT

***AB 1303 – Extends To 2025 School Districts' Ability To Charge For Certain Direct Costs Under The Civic Center Act.***

The Civic Center Act requires school districts to allow youth and community organizations to use school facilities and grounds. For that use, a school district may charge an amount not to exceed its direct costs. In 2012, a bill was passed that expanded the definition of direct costs to include a proportional share of maintenance, repair, restoration, and refurbishment costs associated with the use of the school grounds or facilities. This expansion was intended to help schools maintain fields and other facilities, keeping them open and accessible to the community. This bill extends the sunset on districts' ability to charge these proportionate maintenance costs as direct costs until 2025.

*(AB 1303 amends Section 38134 of the Education Code.)*

## CONSTRUCTION PROJECTS

***AB 456 – Extends Claim Resolution Process For Claims Arising During Public Works Projects.***

This bill extends the sunset date from 2020 to 2027 on an existing claim resolution process designed to address contractor claims that arise during a public works projects. The current claims process applies to "public entities" such a cities, counties, districts, and special districts. Under this claims resolution process, contractors for public works projects can submit a claim to a district relating to disputes that arise during the project. Within 45 days, the district must provide a written response, identifying the disputed and undisputed amounts of the claim. The undisputed amounts must be paid, and the contractors may demand a meet and confer conference on the remaining disputed amounts. If the claim is not resolved through the conference process, it is must be submitted to non-binding mediation. This bill extends this claims resolution process for another seven years.

*(AB 456 amends Section 9204 of the Public Contracts Code.)*

***AB 695 – Extends Community College Districts’ Ability To Use Design-Build Contracts To 2030 And Ability To Charge Proportionate Share Of Maintenance As Direct Costs To 2025.***

This bill extends the authority of community college districts to use the design-build project delivery method for its eligible public works projects from 2020 to 2030. Community college districts still may only use the design-build method if both the design and construction of the facility exceeds \$2,500,000 and the Board makes the findings required by Education Code section 81702. Traditionally, public agencies have used the “design-bid-build” method, where a public agency first contracts with an architect or engineering firm to design the project, and after plans and specifications are completed, the agency solicits bids for the construction work. An alternative delivery method is the “design-build” system, where a public agency enters into a single contract with an entity responsible for both project design and construction. A design-build contract may be awarded using best-value criteria, rather than the traditional award to the lowest responsible bidder. Design-build may also expedite project completion and reduce design and construction disputes. This bill also prohibits community college districts from prequalifying or shortlisting a design-build firm, unless the firm and its subcontractor meet certain skilled and trained workforce requirements. This prohibition does not apply to projects existing before July 1, 2020 or projects that are covered by a project labor agreement that binds the firm and its subcontractors to use a skilled and trained workforce.

This bill also extends the sunset from 2020 to 2025, on a provision of law that allows community colleges to recover a proportionate share of maintenance, repair, restoration, and refurbishment costs, as direct costs charged to nonprofits organizations and similar community organizations for using district facilities.

*(AB 695 amends Sections 81703, 81704, and 82542 to the Education Code and adds Section 81709 to the Education Code.)*

***AB 1768 – Expands The Definition Of “Public Works” To Include Preconstruction Site Assessment Or Feasibility Studies.***

Existing laws requires prevailing wages be paid to all workers on most public works projects. In general, public works projects include construction, alteration, demolition, installation or repair work done under contract and paid for in whole or in part out of public funds. This bill is intended to address confusion among awarding agencies, contractors, and labor groups regarding when prevailing wage requirements apply on preconstruction activities. This bill addresses that confusion by expanding the definition of “public works” to include work performed during construction site assessments and feasibility studies, and specifies that preconstruction work is part of a public works project, even if no construction work occurs. Districts need to be aware of this expanded definition when requesting bids or considering public work projects.

*(Amends Section 1720 of the Labor Code.)*

## CONTRACTING OUT

***SB 438 – Restricts Public Agencies From Contracting Out Dispatch Services To Private Entities.***

Current law requires every local public agency to administer a basic emergency telephone system for police, firefighting, and emergency medical and ambulance services. SB 438 now prohibits public agencies, including public educational agencies, from delegating, assigning, or contracting out “911” call processing services for dispatch of emergency response resources (“dispatch services”) unless the assignment or contract is with another public agency. In effect, SB 438 generally

prohibits public educational agencies from contracting dispatch services to private entities.

The bill provides an exception for public agencies, including public educational agencies, that have delegated, assigned, or contracted dispatch services to private entities on or before January 1, 2019. These agencies may continue to do so with the concurrence of any Public Safety Agencies “PSA’s” that provide prehospital emergency medical services for that agency. If one of those PSA’s that provide prehospital emergency medical services does not concur with continuing to contract with a private entity, the public agency may continue to contract with the private entity for dispatch services for the remaining concurring PSA’s while the PSA that does not agree shall discharge its own dispatch services within its jurisdictional boundaries. If continuing the contract with the private entity is not feasible after a PSA does not concur with the contract, then the withdrawing PSA shall assume the dispatch services for the service area originally subject to the delegation, assignment, or contract.

Nothing in SB 438 prohibits a public agency, including a public educational institution, or a PSA from entering into a contract for “backup” dispatch services with either a private entity or public agency.

SB 438 also establishes requirements for a PSA, including campus police, to communicate emergency response information to an emergency medical services (“EMS”) provider. The bill requires a PSA that provides dispatch services to make a connection available from the PSA’s dispatch center to an EMS provider’s dispatch center for timely transmission of emergency response information. The connection may be established by a direct computer aided dispatch or an indirect connection, such as an intercom, radio, or other electronic means. The PSA is entitled to recover the actual costs incurred from maintaining the connection from the EMS provider. PSA’s that implement emergency medical dispatch programs are subject to the review and approval of

the local EMS agency and are required to perform dispatch services in accordance with applicable state guidelines and regulations.

*(SB 438 adds Section 53100.5 to and amends Section 53100 of the Government Code, and adds Sections 1797.223 and 1798.8 to the Health and Safety Code.)*

## FOOD SAFETY

### *SB 677 – Bans the Use Of Latex Gloves In Food Facilities.*

Existing law requires that workers in certain food facility, including public and private school cafeterias, wear gloves whenever they have any cuts, sores, rashes, artificial nails, nail polish, rings (other than a plain wedding band), uncleanable orthopedic support devices, or fingernails that are not clean, smooth, or neatly trimmed. To protect individuals with latex allergies, this bill prohibits the use of latex gloves whenever gloves must be worn. Types of nonlatex gloves that are acceptable include, but are not limited to, nitrile, polyethylene, and vinyl.

*(Amends Sections 113961 and 113973 of the Health and Safety Code.)*

## TERMINOLOGY

### *AB 413- Replaces At-Risk With At-Promise.*

This bill changes various sections of the Education Code and Penal Code to use the term “at-promise” instead of “at-risk.” The phrase at-promise is defined the same as the term at-risk.

*(AB 413 amends Sections 234.1, 8266.1, 8423, 8801, 11300, 33426, 42920, 44324, 45391, 48660.1, 51266, 54690, 60901, and 69981 of the Education Code. It also amends Sections 5087, 6025, 6027, 13825.2, 13825.4, 13825.5, 13826.11, and 13864 of the Penal Code.)*

***AB 1595 – Elementary And Secondary Omnibus Bill: Changes Terminology For California School Districts From Homemaking To Family And Consumer Science And Definition Of Schoolday (Omnibus Bill).***

**Homemaking and Consumer Science**

This bill changes portions of the Education Code that refer to school district pupil instruction as homemaking to family and consumer sciences.

**Definition of Schoolday**

This bill changes the definition of “schoolday” for school districts to any day that pupils in kindergarten or grades 1 to 12, inclusive, are attending school for purposes of classroom instruction, including, but not limited to, pupil attendance at minimum days, state-funded preschool, transitional kindergarten, summer school including incoming kindergarten pupils, extended school year days, and Saturday school sessions.

*(AB 1595 amends Sections 1900, 35179.6, 47605, 47605.6, 48600, 49550, 51220, 51810, and 52570 of the Education Code.)*

***SB 383 – Revises Terminology For The California Community Colleges From Homemaking Courses To Family And Consumer Sciences Courses And Armed Forces Of The United States To Include The California National Guard Rather Than The California Army National Guard.***

Existing law allowed the governing board of a community college to establish and maintain community services classes, including in the area of “homemaking.” SB 383 removes the term homemaking and changes it to “family and consumer sciences.”

Existing law allowed members of the Armed Forces of the United States to receive nonresident classification for determining the amount of tuition and fees applicable to them. The definition of Armed Forces of the United States included the California Army

National Guard. SB 383 removes the word “Army” from that designation so that any member of the California National Guard is entitled to nonresident classification. To the extent this change in terminology requires community college districts to provide nonresident classification to more students, the bill would impose a state-mandated local program. Community college districts are eligible for reimbursement for those costs if the commission on state mandates determines that SB 383 contains costs mandated by the state.

*(SB 383 amends Sections 68075 and 78401 of the Education Code.)*

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