

■ 2022 EDITION



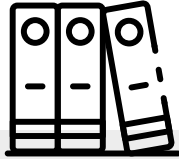
LEGISLATION AND CASE LAW HIGHLIGHTS

Legal Developments of Interest for K-12 School Districts



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- Board Ethics, Transparency & Accountability Cases
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LEGISLATION AND CASE LAW HIGHLIGHTS

2022 EDITION



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THE FRONTIER

BY GREGORY J. DANNIS
DANNIS WOLIVER KELLEY PRESIDENT



The schools have all opened, with most free of masks.
The virus has slowly retracted its claws.
And legislators soon returned to their task
Of writing and passing a slew of new laws.

It seems like they think that the state is a mess -
So broken that many things need to be fixed.
Well, how many bills to the Governor's desk?
One thousand, one hundred and sixty and six!

But not all survived, and for that we thank heaven.
With our gratitude, not all bills did he sign.
Still, the total that passed came to nine ninety seven,
For he vetoed incisively one sixty-nine

A board member can, for a cause, be remote,
And now there are ethics on which you must train.
Recallers must prove it's the truth that they wrote.
Recuse for a year if folks paid your campaign.

After warning, the Pres can remove a disruptor.
If you tweet about business, you can't raise a shield.

When you see someone praying, do not interrupt her,
If the football game's over and she's at midfield.
Now the family includes one who's so designated.
A mandate for leaves for those who are grieving:
Five days for bereavement (wherever located).
A survey of teachers on why they are leaving.

A process and steps to recoup overpay.
Paid status until there's a final decision?
And PERB will now fine you to \$100K,
If the union believes you are sowing division.

Include in all postings the pay scale of wages,
And schedule that new holiday in mid-June.
Beware the STRS audit of your bargained pages:
You'll pay if the comp is an illegal boon.

Now charters must post their LCAP on the web
And, like districts, encourage a steady hydration
For charters, so many laws flow and they ebb
But all new construction needs bottle fill stations.
Make sure all filtration meets minimum MERV.



Build some new houses by the school yard gate.
All of the plumbing must water conserve.
Two-thirds of the food must be grown in the state
There's money for buses with zero emissions,
And for pre-schools to be at community college.
There must be reports for bad cyber transmissions.
Do not close a school without equity knowledge.

The contract is void for accepting a bribe.
When natural disasters unfold with great drama,
Mental health care must all COEs now provide
And every school site must have six kits for trauma.

The ELOP will offer more minutes of classes.
For preschools, expulsion's no longer corrective.
Provide eye exams for the kids who need glasses,
And look to the past from a tribal perspective

School counselors should serve all through MTSS.
And Title IX changes are sure to appear.
The 504 statute will be re-addressed -
That law has been untouched for 45 years!

A fifth year of high school is here for some kids
Who are homeless or court-schooled or fostered.
Administer meds - the law does not forbid
For a trained volunteer on the roster.
Restorative justice that's evidence-based.
Improved transportation for littlest tykes.
An unexcused absence will now be the case
For students who leave school to be at a strike!

The state will develop an equity tool -
The social and all economics addressed.
And immuno-records will come from the schools.
The rights of the homeless will keep being stressed.

And finally, now we have new definition
As if, prior to this, it was somehow unclear.
But we know the one trait that embodies our mission:
Every year, every district is a newfound "frontier."

Enjoy the summaries.

BOARD ETHICS, TRANSPARENCY AND ACCOUNTABILITY LEGISLATION

AB Nos. 473 & 474 (2021)

Recodifies California Public Records Act

Assembly Bill Nos. 473 and 474 (Chau) together recodify, without substantive amendment, the California Public Records Act, moving it to Government Code section 7290.000 et seq. beginning January 1, 2023. (Stats. 2021, chs. 614 & 615, effective January 1, 2022.)

AB No. 2158

Requires Ethics Training For Education Officials

Assembly Bill No. 2158 (Fong) requires school district, county board of education, and charter school governing body members, designated employees, and members of other bodies who receive compensation or reimbursement of expenses, to receive ethics training every two years. Each board member must complete the training before January 1, 2026, unless their term ends in the 2025 calendar year. (Stats. 2022, ch. 279, effective January 1, 2023.)

AB No. 2449

Creates Remote Board Meeting Participation Option

Assembly Bill No. 2449 (Rubio) gives boards another option to allow board members to remotely participate in board meetings. Adding to the traditional teleconference and AB 361 provisions for remote meetings, AB 2449 allows board members to participate remotely for just cause or under emergency circumstances. This participation may only be allowed if the board meeting otherwise complies with requirements for remote public participation. (Stats. 2022, ch. 285, effective January 1, 2023.)

AB No. 2584 & SB No. 1360

Adds Requirements For Recall Petitions

Assembly Bill No. 2584 (Berman) and Senate Bill No. 1360 (Umberg) make several changes to the process for recall of board members. The bills raise the threshold for the number of signatures required to initiate a recall. They require the petitions to include an estimated cost of the recall election and disclosures regarding funding for the recall effort. Consistent with other



ballot materials, a voter may now challenge the statement of proponents as false or misleading before the petition is circulated. (Stats. 2022, chs. 791 & 887, effective January 1, 2023.)

AB No. 2647

Modifies Disclosure Requirement Of Records Provided Before Board Meetings

Assembly Bill No. 2647 (Levine) revises the Brown Act requirement to make records provided within 72 hours of a regular meeting available for inspection at the same time they are provided to a majority of the board. In response to a recent case, the bill clarifies that the records do not need to be made available outside of business hours if the agency posts the records on its website immediately and it has previously posted an initial staff report. (Stats. 2022, ch. 971, effective January 1, 2023.)

SB No. 997

Requires Student Participation In LCAP Development

Senate Bill No. 997 (Pan) will require, beginning in the 2024-25 school year, school district and county offices of education serving middle or high school students to include students in development of their local control and accountability plan ("LCAP"). To satisfy the requirement, an agency may either create a student advisory committee to advise regarding the LCAP or appoint two students to the existing parent advisory committee. (Stats. 2022, ch. 922, effective January 1, 2023.)

SB No. 1057

Changes Open Meeting Requirements for Special Education Community Advisory Committees and Schoolsite Councils, and Makes Other Clean Up Amendments

Senate Bill No. 1057 (Committee on Education) exempts special education community advisory committees from the Brown Act, but makes those meetings subject to the open meeting requirements of Education Code section 35147(c); the bill also makes schoolsite council meetings under Education Code section 52852 non-exempt from the Brown Act. This bill also requires that unified school district boundaries be coextensive with

their component districts, and makes changes to the process for district reorganizations. It also clarifies that notices to parents upon a student's initial classification as truant should not state that the pupil may be subject to restriction or delay of the student's driving privileges, since the juvenile court no longer has authority to impose this consequence on habitual truants. (Stats. 2022, ch. 301, effective January 1, 2023.)

SB No. 1061

Alters Process To Require Special Election To Fill Board Vacancy

Senate Bill No. 1061 (Laird) changes two aspects of the process forcing a special election to fill a vacancy on a board when a petition is filed within 30 days after a board fills the vacancy by appointment. The bill requires that the petition must include the estimated cost of the special election on a per-student basis and that any election may be held up to 180 days after the petition is certified in order to consolidate it with another election. (Stats. 2022, ch. 831, effective January 1, 2023.)



SB No. 1100

Allows Removal Of Disruptive Person From A Meeting

Senate Bill No. 1100 (Cortese) allows the presiding official of a legislative body or their designee to remove an individual who is disturbing a public meeting if the individual fails to cease the disruptive behavior after receiving a warning that failure to stop will result in their removal. Disruptive behavior includes failure to adhere to reasonable regulations of the legislative body or the law or behavior which constitutes use of force or threat of force. (Stats. 2022, ch. 171, effective January 1, 2023.)

SB No. 1439

Creates Conflict Implications For Campaign Contributions

Senate Bill No. 1439 (Glazer) imposes limitations and additional requirements on campaign contributions received or solicited by governing board members or chief executives. A board member or chief executive may not solicit a contribution of more than \$250 to a campaign committee, either candidate or ballot measure, during the pendency of, or for 12 months following a decision involving the contributor. A board member or chief executive who has received such a contribution to their campaign committee in the 12

months prior to a decision involving the contributor is required to disclose and recuse themselves from any involvement in that decision. (Stats. 2022, ch. 848, effective January 1, 2023.)



BOARD ETHICS, TRANSPARENCY AND ACCOUNTABILITY CASES

LITIGATION UPDATES

Districts Not Subject To Unruh Act Damages

In *Brennon B. v. Superior Court* (2022) 13 Cal.5th 662, the California Supreme Court held that school districts may not be held liable for damages for civil rights violations under the Unruh Civil Rights Act. While the Unruh Act allows penalties of up to three times the amount of the damages as well as attorneys' fees for discrimination claims, the Court found that school districts are not "business establishments" subject to the Unruh Act.

Blocking Constituents From Social Media Accounts Implicates First Amendment

In *Garnier v. O'Connor-Ratcliff* (9th Cir. 2022) 41 F.4th 1158, the Ninth Circuit Court of Appeals clarified that social media accounts used by school officials to communicate on public matters might be considered public forums. Accordingly, the First Amendment may limit the ability of officials to place restrictions on who may comment or otherwise interact with such accounts.

Discipline of Football Coach Who Prayed Midfield After Games Overtuned

In *Kennedy v. Bremerton School District* (2022) 142 S.Ct. 2407, the United States Supreme Court held that the Free Exercise and Free Speech Clauses of the First Amendment protected a coach who engaged in "short, private, personal prayer" during times when employees were free to attend to personal business and that the Establishment Clause - requiring the separation of church and state - did not justify the school district's decision not to rehire him for the next season.

LABOR, EMPLOYMENT AND PERSONNEL LEGISLATION

AB No. 152

Extends Deadline to Use COVID-19 Supplemental Paid Sick Leave through December 31, 2022

Assembly Bill No. 152 allows eligible employees to use existing COVID-19 Supplemental Paid Sick Leave (SPSL) through December 31, 2022. SPSL benefits enacted earlier this year pursuant to SB 114 would have expired on September 30, 2022. AB 152 does not provide additional leave or a new bank of SPSL for employees, but instead extends access to current, unused SPSL leave banks through December 31, 2022. Assembly Bill 152 is effective immediately. (Stats. 2022, ch. 736, effective September 29, 2022.)

AB No. 185

Establishes New Procedures for Wage Overpayments

Assembly Bill No. 185 (Education Finance Bill) establishes a new procedure to be followed when wage overpayment issues arise for certain public employers including school districts, county offices of education and charter schools. Specifically, this bill adds Education Code section 44042.5 requiring school employers to notify an employee of wage overpayment and provide the employee an opportunity to respond before initiating recoupment actions. Reimbursement shall be made to the school employer through one of the following mutually agreed methods: cash payment or cash installment payments; installment payments through payroll deduction covering at least the same number of pay periods in which the error occurred; or adjustment of appropriate leave credits or compensating time off (provided that the overpayment involves the accrual or crediting of such leave credits). If mutual agreement for reimbursement cannot be reached, then the employer shall proceed with recoupment through installment payments through payroll deductions. Action to recover an overpayment per Education Code section 44042.5 must be initiated within three years from the date of overpayment. (Stats. 2022, ch. 571, effective immediately.)

AB No. 1041

Expands Definition of “Family Member” in CFRA and Healthy Workplaces, Healthy Families Act

Assembly Bill 1041 (Wicks) expands the definition of “family member” to include “a designated person” for purposes of requesting paid sick leave under the Healthy Workplaces, Healthy Families Act of 2014 and family medical leave under the California Family Rights Act (CFRA). A “designated person” is an individual related by blood, or an individual whose close



association with the employee is the equivalent of a family relationship. A “designated person” may be identified by an employee at the time of the leave request. An employer may limit an employee to one designated person per 12-month period. (Stats. 2022, ch. 748, effective January 1, 2023.)

AB No. 1655

Recognizes Juneteenth as a State Holiday

Assembly Bill No. 1655 (Jones-Sawyer) adds Juneteenth to the list of state holidays for state employees. Regarding holidays which require community colleges and public schools to close and for their classified employees to be paid, this bill does not expressly list Juneteenth as a school holiday. However, this bill specifies that school and college holidays “appointed by the President” include those holidays created by federal legislation signed by the President. Because President Biden signed federal legislation on June 17, 2021 to make Juneteenth a holiday, this bill now makes Juneteenth a school and college holiday starting in 2023. However, it is unclear whether this bill has any retroactive effect to June 17, 2021 when Juneteenth was signed into law by President Biden. (Stats. 2022, ch. 757, effective January 1, 2023.) chs. 791 & 887, effective January 1, 2023.)

AB No. 1667

Alters Manner in Which CalSTRS Conducts Audits of Public School Employers and Members and Limits CalSTRS’ Ability to Collect Overpayments in Certain Circumstances

Assembly Bill No. 1667 (Cooper) changes the requirements, duties and procedures regarding the following, among other provisions: the California State Teachers’ Retirement System’s (CalSTRS) audits of public school employers and members of the system; CalSTRS’ interpretation and clarification of rules relating to creditable compensation and creditable service; CalSTRS’ review of compensation items included in a negotiated agreement between the public school employer and exclusive representative; errors relating to employer reported compensation to the system; and the recovery of overpayments due to employer error or to CalSTRS’ error. (Stats. 2022, ch. 754, effective January 1, 2023.)

**AB No. 1876****Establishes Alternate Means of Verification of Prior Employment For Emergency Career Substitute Teacher Permits**

Assembly Bill No. 1876 (Seyarto) establishes an additional means of verifying the prior employment history of an applicant for an emergency career substitute teaching permit to the Commission on Teacher Credentialing (CTC). Under existing California regulations, an applicant may verify prior employment by showing 3 consecutive years of at least 90 days per year of day-to-day substitute teaching during the 3 years immediately preceding the application in either the school district requesting the permit, or if the county office of education is responsible for the assignment of day-to-day substitutes for all the districts in the county, in one or more districts in the county requesting the permit. This bill adds a new method of verifying employment, specifying that the CTC shall accept verification of at least 90 days per year of day-to-day substitute teaching accumulated from one or more California school districts participating in a consortium with the school district requesting the permit in the three years immediately preceding the date of application. (Stats. 2022, ch. 113, effective January 1, 2023.)

AB No. 1949**Provides Five Days of Bereavement Leave Regardless of Out-of-State Travel for Employees**

Assembly Bill 1949 (Low) amends the California Family Rights Act (CFRA) by requiring employers to grant bereavement leave of up to 5 days upon the death of a family member. The leave must be taken within 3 months of the death. The leave would be taken under any existing bereavement leave policy. If none exists or the policy provides for less than five days, the leave may be unpaid, however, the employee is able to use vacation, personal leave, accrued and available paid sick leave. This bill does not apply to employees who are covered by a collective bargaining agreement that provides for bereavement leave equal to that of the bill. For school district employees, Education Code sections 45194 and 44985 already provide bereavement leave of 3 days, or 5 days if out-of-state travel is required. This bill now mandates that all employees receive 5 days of bereavement leave regardless

of the need for out-of-state travel. Employers may request documentation of the death and are required to maintain such leave requests as confidential. (Stats. 2023, ch. 767, Effective January 1, 2023.)

AB 2337**Defines Frontier School District**

Assembly Bill No. 2337 (Dahle) amends the Education Code to define "frontier school district" to mean a school district that meets either of the following conditions: total number of students in average daily attendance (ADA) at all of its schools is fewer than 600 students; or each school operated by the school district is located in a county with a total population density fewer than 10 persons per square mile. (Stats. 2022, ch. 83, effective January 1, 2023.)

AB No. 2413**Allows Classified Employees to Remain in Paid Status in Certain Circumstances Until Final Determination of Disciplinary Action**

Assembly Bill No. 2413 (Carrillo) provides that if a permanent school district or community college district classified employee timely requests a hearing on disciplinary charges against the employee for suspension, demotion, or dismissal, the district is prohibited from implementing the disciplinary action before the decision is rendered after the hearing. However, if the governing board or an impartial third-party hearing officer finds that at the time discipline was imposed at the conclusion of the Skelly review process, the employer demonstrated by a preponderance of evidence that the employee engaged in criminal misconduct, misconduct that presents a risk of harm to pupils or students, staff, or property, or committed habitual violations of the district's policies or regulations, then the employer may implement the disciplinary action before the decision is rendered after the hearing.

If a hearing on the charges will be conducted by an impartial third-party hearing officer pursuant to a collective bargaining agreement or the governing board, then the district may stop paying a permanent classified employee before a decision is rendered after 30 calendar days from the date the hearing is requested. To the extent this bill conflicts with a collective

bargaining agreement entered into before January 1, 2023, this bill would not apply to the district until the expiration or renewal of the agreement. (Stats. 2022, ch. 913, effective January 1, 2023.)

AB No. 2693

Extends and Revises the Required Notices to Employees Regarding Potential COVID-19 Exposure

Assembly Bill No. 2693 (Reyes) extends the requirement that employers notify employees of potential COVID-19 exposure until January 1, 2024. This bill revises the employer obligations to notify employees, among other things, to now require the employer to do the following: prominently display a notice in all places where employee notices are customarily posted stating the dates on which employee(s) or subcontractor(s) with a confirmed COVID-19 case was on the premises during the infectious period; the location of the exposure; contact information to receive information regarding applicable COVID-19 related benefits and cleaning and disinfection plan; post the notice within one business day from notification of potential exposure and to remain posted for not less than 15 calendar days; notice provided in English and language understood by majority of employees; keep a log of all dates such notice was posted; and posted on an existing employee portal if other workplace notices are posted on the employee portal. This bill also deletes the requirement for an employer to report COVID-19 outbreaks to local public health agencies. (Stats. 2022, ch. 799, effective January 1, 2023.)

SB No. 191

Requires Until June 30, 2025 that Union Be Allowed to Conduct In-Person Meetings with Newly Hired Employees During Paid Time

Senate Bill No. 191 (Committee on Budget and Fiscal Review) provides that if a public employer has not conducted an in-person new employee orientation within 30 days of the newly hired employee's start date, and such employee is working in person, then the exclusive representative shall be entitled to all of the following: schedule an in-person meeting at the worksite during employment hours where newly hired employees have the opportunity to attend and shall be relieved of all duties to attend the meeting; up to 30-minutes on paid time to communicate directly with newly hired employees in their bargaining unit; and within seven calendar days of receiving the request from the exclusive representative, the employer shall provide appropriate on-site meeting space. If there is an applicable health order that limits the size of gatherings, then the exclusive representative may schedule multiple meetings with newly hired employees if necessary to comply with the meeting size limits, or schedule the meetings after an order that prohibits all gatherings is lifted. The employer and exclusive representative may agree to any of the following: provide the exclusive representative with more than 30 minutes of paid time to communicate with newly hired employees; alternative access rights; or expressly waive or modify the requirements set forth in this section. This law remains in effect until June 30, 2025. (Stats. 2022, ch. 67, effective June 30, 2022.)



SB No. 874

Provides New Legal Protections to Merit System Permanent Classified Employees Who Are Promoted

Senate Bill No. 874 (Cortese) amends Education Code sections 45301 and 88120 (applicable to merit system districts) to provide protections for promoted permanent classified employees. The law now provides that a permanent classified employee who accepts a promotion and fails to complete the probationary period for that promotional position shall be employed in the classification from which the employee was promoted. This new language for a merit system district already exists for non-merit system districts and now provides the same protections for merit system employees as non-merit system employees. To the extent this bill conflicts with a provision of a collective bargaining agreement entered into before January 1, 2023, this bill shall not apply until expiration or renewal of that collective bargaining agreement. (Stats. 2022, ch. 150, effective January 1, 2023.)

SB No. 931

Imposes Monetary Penalty When Employer Deters or Discourages Union Membership

Senate Bill No. 931 (Leyva) imposes a civil penalty on a public employer that is found to have deterred or discouraged public employees or applicants from becoming or remaining members of a union, authorizing union representation, or authorizing dues deductions to a union. In the event of an employer violation, PERB shall impose a civil penalty of up to \$1,000 per affected employee, not to exceed \$100,000 in total, and attorney's fees and costs. When assessing the civil penalty, PERB must consider the employer's annual budget, the severity of the violation, and any prior history of the employer's violations. (Stats. 2022, ch. 823, effective January 1, 2023.)

SB No. 1162**Requires Employers to Publish and Maintain Pay Information**

Senate Bill No. 1162 (Limón) requires all employers with 15 or more employees to include the applicable pay scale in each job posting. Upon request from an employee, the employer must provide the employee the pay scale for the employee's position. An employer must also maintain records of a job description and wage rate history for each employee for the duration of their employment, plus three years. Employers may be required to pay penalties of \$100 to \$10,000 for violations. (Stats. 2022, ch. 559, effective January 1, 2023.)

SB No. 1397**Waives Requirement to Pass State Basic Skills Proficiency Test For Emergency Teaching Permits Until July 1, 2024**

Senate Bill No. 1397 (Borgeas) waives the requirement that an applicant for an emergency teaching or specialist permit pass the state basic proficiency test until July 1, 2024. This waiver applies only to emergency teaching or specialist permits and may not be used to satisfy an applicable basic skills proficiency requirement for any other teaching credential, permit, or certificate. (Stats. 2022, ch. 335, effective January 1, 2023.)

SB No. 1487**Requires Survey of Teacher Resignations**

Senate Bill No. 1487 (Rubio) requires the California Department of Education (CDE) and Commission on Teacher Credentialing (CTC) to develop a survey by July 1, 2023, to collect data from teachers resigning their positions or electing not to accept a teaching assignment for the upcoming year, including whether or not the teachers are exiting the profession. After the start of the 2023-24 school year, local educational agencies (LEAs) are encouraged to administer the survey within 15 days of a teacher resigning their position or electing not to accept a teaching assignment for the upcoming school year. LEAs are also encouraged to report the results of surveys to CTC on an annual basis. CTC and CDE shall prepare an annual report compiling the data, submit it to the state Legislature, and post the report on the CTC website. (Stats. 2022, ch. 924, effective January 1, 2023.)

**CHARTER SCHOOLS LEGISLATION****AB No. 181****Education Omnibus Budget Trailer Bill**

Assembly Bill No. 181 (Committee on Budget), the education omnibus budget trailer bill, provides an additional two years for state charter school sites that have combined with other affected charters in order to comply with location requirements to operate as a "continuing charter school." This bill further requires charter schools to post the school's LCAP, or amendments to the LCAP, on the home page of the charter school's website. This bill includes charter schools in the requirement to immediately enroll homeless youth unless it conflicts with program capacity restrictions. This bill permits charter schools to claim apportionment for any charter school pupil placed in a nonpublic school ("NPS") through their individualized education program when they receive a virtual program through the NPS (subject to certain requirements.) (Stats. 2022, ch. 52, effective June 30, 2022.)

AB No. 185**Education Omnibus Finance Trailer Bill**

Assembly Bill No. 185 (Committee on Budget), the education omnibus finance trailer bill, addresses a number of finance-related matters that impact charter schools. Of note, this bill increases the base grant for the local control funding formula to an additional 6.7%. The bill also extends the appropriation for expanding access to classroom-based preschool programs to the 2022-2023 school year, with conditions for accepting these grants, such as providing data to the State about student participation and presenting a plan at a public meeting before April 2023 about how a preschool program will serve all children in the attendance area. Also related to early childhood education, this bill clarifies elements of the transitional kindergarten expansion, including maintaining average class enrollment for transitional kindergarten students to no more than 24 students for the 2022-2023 school year. In addition, this bill creates a process for addressing wage overpayment for school employees. (Stats. 2022, ch. 571, effective September 27, 2022.)

**AB No. 740****Expands Notice Requirements for Involuntary Removal of Foster Youth**

Assembly Bill No. 740 (McCarty) requires a charter school to provide notice to a homeless or foster youth's educational rights holder, attorney, and county social worker of the right to initiate a hearing before the foster or homeless youth is disenrolled, dismissed, transferred or otherwise involuntarily removed from a charter school. For an Indian child, the charter school must also notify the tribal social worker. The bill also makes clear that these support personnel have the same rights as a parent or guardian to receive any notices about suspension, expulsion, manifestation determination, or involuntary transfer and other documents. (Stats. 2022, ch. 400, effective January 1, 2023.)

**AB No. 2072****Requires Mental Health Professionals in the event of Natural Disasters**

Assembly Bill No. 2072 (Gabriel) requires county offices of education to enter into agreements with school districts and charter schools throughout the county for the purpose of providing mental health professionals or other qualified personnel to areas in the county as needed in the event of a natural disaster or other traumatic event. (Stats. 2022, ch. 909, effective September 30, 2022.)

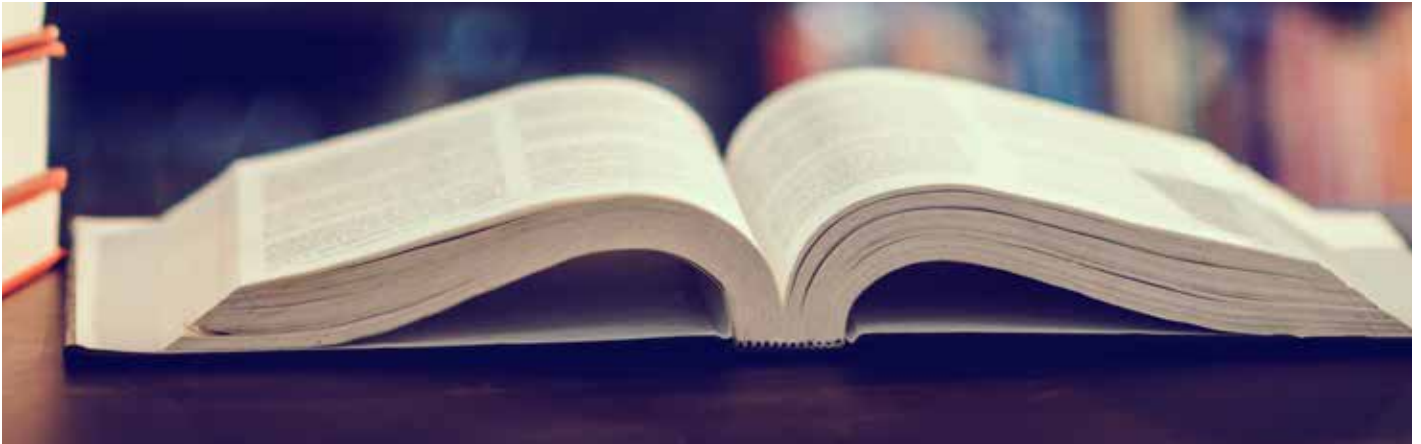
**AB No. 2158****Establishes Ethics Training Requirements for Charter Governing Body**

Assembly Bill No. 2158 (Fong) expands the requirement for ethics training of school board governing bodies to charter schools. This bill requires charter governing board members to participate in two hours of general ethics principles and ethics laws training at least once every two years. This requirement applies to all local agency officials who are members of a governing body of a charter school, even if the board members do not receive any type of compensation, salary, stipend, or reimbursement for their duties. (Stats. 2022, ch. 279, effective September 13, 2022.)

**SB No. 1057****Specifies Meeting Requirements for Special Education Community Advisory Committees**

Senate Bill No. 1057 (Committee on Education), the omnibus bill for elementary and secondary education, makes a number of changes to existing law to clarify and clean up Education Code provisions. For charter schools, the bill extends the exemption from the Brown Act and Bagley-Keene Open Meeting Act to special education community advisory committees. At the same time, for charter schools serving as their own local education agency, the bill requires the charter school to hold special education advisory committee meetings open to the public, in an accessible location, and with an agenda posted at least 72 hours in advance for the meeting with the date, time, and location of the meeting. (Stats. 2022, ch. 301, effective January 1, 2023.)

BUSINESS, PROPERTY AND CONSTRUCTION LEGISLATION



AB No. 181

Provides Grants to Community College Districts for Preschool Facilities; Increases Funding Under the Local Control Funding Formula; Authorizes Funds for Kitchen Infrastructure; Funds Zero-Emission School Buses; Appropriates \$1.3 Billion for New Construction and Modernization Projects

Assembly Bill No. 181 (Committee on Budget), an education omnibus trailer bill:

- Expands the definition of “school district” for purposes of the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program to include community college districts that operate a preschool program on behalf of, or in lieu of, a school district or county office of education;
- Increases LCFF base grants for transitional kindergarten and grades 1 through 12 as well as an annual inflation adjusted add-on for transitional kindergarten;
- Authorizes excess food service training funds to be used for kitchen infrastructure;
- Funds grants to purchase zero-emission school buses under the Hybrid and Zero-Emission Truck and Voucher Incentive Program for LEAs and charging and fueling infrastructure; and
- Appropriates \$1.3 billion for new construction and modernization projects under the Leroy F. Greene School Facilities Act of 1998. (Stats. 2022, ch. 52, effective June 30, 2022.)

AB No. 185

Establishes an “Off-Switch” for Level 3 School Impact Fees Once Triggered; Provides an Alternative Design-Build Project Delivery Process

Assembly Bill No. 185 (Committee on Budget), an education omnibus trailer bill, establishes criteria ending a school district’s ability to impose Level 3 fees once triggered. Under existing law, a qualifying school district may impose Level 3 fees on new residential development after the State Allocation Board (SAB) makes a determination that state funds for new school facility construction are no longer available, but the governing statute is silent on when Level 3 authority ends once triggered. This bill adds language prohibiting the imposition of Level 3 fees as of: (i) the date that funds are transferred into

an account that has been identified for new construction apportionments, or (ii) the date of the first meeting of the SAB at which apportionments for new construction resume, whichever is earlier. Additionally, this bill requires OPSC to post the status of these actions on its website.

Additionally, AB No. 185 authorizes school districts to award contracts using an “alternative design-build” project delivery process for public works projects subject to a project labor agreement in excess of \$5 million entered into on or after January 1, 2023. Existing law allows school districts to award design-build contracts based on low bid or best value for public work projects in excess of \$1 million until January 1, 2025. Under AB No. 185, a single design-build entity is selected based on, among other criteria, its proposed design cost, general conditions, overhead, and profit as a component of the project price. The authorizing statute sunsets on January 1, 2029. (Stats. 2022, ch. 571, effective September 27, 2022.)

AB No. 778**Requires School Districts to Give Preference for California-Grown Agricultural Food Products During Procurement**

Assembly Bill No. 778 (Eduardo Garcia) cleans up and recasts existing law which already requires school districts to give preference to agricultural food products grown in the State. This bill now requires a California state-owned or state-run institution that purchases agricultural food products to ensure that at least 60% of their agricultural food product purchase are grown or produced in California. School districts are now grouped with other "local education agencies" and are required to accept the bid for the State-grown agricultural food product when both (1) the bid for the California-grown item does not exceed the lowest bid or price of the item grown outside the State, and (2) the quality of the California-grown item is comparable to the item from outside the State. Agricultural food products include any fresh or processed food product such as, fruits, nuts, vegetables, herbs, mushrooms, dairy, eggs, honey, pollen, grains, meats, and fish, including shellfish. (Stats. 2022, ch. 576, effective January 1, 2023.)

AB No. 1867**Requires Installation of Faucet Aerators and Water-Conserving Plumbing Fixtures in Interior Bathrooms on Modernization Projects Receiving State Bond Funding**

Assembly Bill No. 1867 (Lee) requires the use of water-conserving plumbing fixtures for bathroom modernization projects using state bond funds. Under existing law, the State Allocation Board allocates per pupil state bond funding for the construction and modernization of school facilities. This bill requires a school district, county office of education, or charter school using State bond funding for a school modernization project to install faucet aerators and water-conserving plumbing fixtures in all interior bathrooms. This bill does not apply to repairs or alteration projects involving school building exteriors, school grounds, playing fields, or to bathrooms that already contain both faucet aerators and water-conserving plumbing fixtures at the time the modernization project is submitted. The requirements are applicable to projects submitted to the Division of the State Architect beginning three months after voters approve a school facilities statewide general obligation bond occurring after November 1, 2022. (Stats. 2022, ch. 434, effective January 1, 2023.)

**AB No. 1912****Requires Equity Impact Analysis and Community Engagement Before a District Under Financial Stress Closes or Consolidates a School**

Assembly Bill No. 1912 (Bonta) requires a school district that is a recipient of an emergency apportionment to conduct an equity impact analysis before approving the closure or consolidation of a school. The new legislation mandates that the governing board of the school district transparently formulate a set of metrics for the development of the equity impact analysis with opportunities for community engagement and participation. Mandatory metrics set forth in the new statute include, but are not limited to, factors such as the special programs available at schools, environmental factors, balance of pupil demographics, transportation needs of pupils, aesthetics and the opportunity for blight. Additionally, this bill requires a governing board to first share its closure recommendations with the public at a regularly scheduled meeting before taking action at a subsequently scheduled regular meeting. AB No. 1912 is a departure from existing law because a school district that is the recipient of an emergency apportionment was not previously required to follow specified procedures when deciding to close or consolidate schools. (Stats. 2022, ch. 253, effective September 6, 2022.)

AB No. 2173**Extends Five Percent Cap on Retention for Public Works Contracts and Substantially Complex Exception Indefinitely**

Assembly Bill No. 2173 (Petrie-Norris) extends indefinitely the existing law capping the amount of retention public entities are allowed to withhold from contractors on public works construction projects to five percent (5%) of the contract price. Notwithstanding this general cap, existing law allows owners to withhold more than 5% of the contract price as retention if the owner determines that the project is substantially complex prior to bidding and includes those details in the bid documents explaining the higher retention. These provisions were set to expire on January 1, 2023, and Assembly Bill No. 2173 will extend them indefinitely. (Stats. 2022, ch. 121, effective January 1, 2023.)

AB No. 2232**Establishes Minimum Ventilation Rate and Efficiency Reporting Value Requirements for Existing HVAC Systems in School Facilities**

Assembly Bill No. 2232 (McCarty) requires school districts, charter schools, county offices of education, and community college districts (among others) to ensure that their facilities, including classrooms, have HVAC systems that meet the minimum ventilation rate requirements set forth by the California Building Standards Code (Title 24 of the California Code of Regulations). However, if the existing HVAC system is not capable of safely and efficiently meeting the minimum requirements, schools shall ensure that the HVAC system meets the minimum rates in effect at the time the building permit for its installation was issued. In addition, filtration must be installed that

achieves specific minimum efficiency reporting values to the extent feasible and appropriate for the existing HVAC system, as determined by the LEA. If the existing HVAC system is not designed to achieve the minimum values, the LEA must install filtration that achieves the highest level feasible without significantly reducing the lifespan or performance of the existing HVAC system, as determined by the LEA. The legislative intent of this bill is to provide healthy indoor air quality, including adequate ventilation, to students, teachers, and other occupants. The bill also requires the California Building Standards Commission and the Division of State Architect to adopt mandatory standards for carbon dioxide monitors in classrooms. The State may reimburse these costs in accordance with existing law, if the Commission on State Mandates determines reimbursement by the State is required. (Stats. 2022, ch. 777, effective January 1, 2023.)

AB No. 2260**Requires School Districts to Provide and Maintain Trauma Kits at Certain Occupied Facilities Constructed After January 1, 2023**

Assembly Bill 2260 (Rodriguez), requires the person or entity responsible for managing certain occupied facilities, including those that are owned or operated by a local government entity, and that are constructed on or after January 1, 2023, to comply with certain trauma response requirements. The bill requires such persons or entities to place at least six trauma kits on the premises, periodically inspect and replace the contents of the trauma kits, restock the trauma kits if they are aware, or reasonably should be aware, that a trauma kit has been used, notify tenants of the location of the trauma kits, and provide all information governing the use and maintenance of the trauma kits. The bill defines a trauma kit as a first aid response kit that includes specified items such as a tourniquet. The bill exempts a person or entity from liability for civil damages resulting from any acts or omissions in the rendering of emergency care if the specified trauma response requirements have been met and exempts a property managing entity from civil damages resulting from the failure, improper operation, or malfunction of equipment or materials within a properly stocked trauma kit. The bill does not require a property manager or person employed by a property managing entity to respond to an emergency with the use of trauma kits. (Stats. 2022, ch. 586, effective January 1, 2023.)

AB 2295**Establishes Criteria for Housing Developments to Qualify as "Allowable Uses" on Property Owned by Local Educational Agencies**

Assembly Bill No. 2295 (Bloom) deems residential housing developments on local educational agency property as "allowable uses" when those projects meet certain specified criteria. In doing so, this bill streamlines the local zoning and permitting process for qualifying projects. This bill also exempts these housing developments from various surplus property disposition requirements, including compliance with the Surplus Lands Act. The bill becomes effective on January 1, 2024, and sunsets on January 1, 2033. (Stats. 2022, ch. 652, effective January 1, 2024.)

**AB No. 2355****Requires Reporting Of Cyberattacks**

Assembly Bill No. 2355 (Salas) adds reporting obligations for school districts, county offices of education, and charter schools subject to a cyberattack impacting more than 500 pupils or personnel. Such attacks must be reported to the California Cybersecurity Integration Center regardless of whether they meet the existing threshold for reporting to the Attorney General. This requirement sunsets in 2027. (Stats. 2022, ch. 498, effective January 1, 2023.)

AB No. 2463**Extends Prevailing Wage Exemption for Work Performed by a Volunteer, a Volunteer Coordinator, or a Member of the California Conservation Corps or a Community Conservation Corps on Public Works Contracts**

Assembly Bill No. 2463 (Lee) extends the exemption from payment of the general prevailing rate of per diem wages for work performed by a volunteer, a volunteer coordinator, or a member of the California Conservation Corps or a community conservation corps. Existing law requires payment of general prevailing rate of per diem wages for work for public works contracts and exempts work performed by a volunteer, a volunteer coordinator, or a member of the California Conservation Corps or a community conservation corps until January 1, 2024. Assembly Bill No. 2463 will extend the exemption to January 1, 2031. (Stats. 2022, ch. 210, effective January 1, 2023.)

AB 2536**Eliminates 30-Day Notice Requirement for School District Public Hearing on Level 1 School Impact Fee Nexus Studies**

Assembly Bill No. 2536 (Grayson) clarifies that last year's Assembly Bill 602, which added Government Code 66016.5 relating to school impact fee nexus studies, erroneously included school districts, and also adds a new Government Code 66016.6 requiring all local agencies to evaluate a new fee or capacity charge. This bill eliminates school districts from the procedural requirements of Government Code 66016.5 requiring adoption of a nexus study at a public hearing noticed at least 30 days' prior, and adoption of an updated study every eight years. This means school districts can go back to following the procedural requirements of Government Code 66016 when adopting a new developer fee or approving an increase in developer fee. (Stats. 2022, ch. 128, effective January 1, 2023.)

AB No. 2638**Requires the Installation of Water Bottle Filling Stations for New Construction or Modernization Projects Submitted to the Division of the State Architect by a School District or the Governing Body of a Charter School**

Assembly Bill No. 2638 (Bloom) requires that a minimum of one water bottle filling station be installed in schools undergoing modernization projects and, for new construction projects, the installation of a minimum of one water bottle filling station for every 350 people at each school site being constructed. An existing water bottle filling station that was installed before the enactment of this bill that is properly maintained will count toward the minimum requirement. The stations should be placed in high traffic and common areas such as hallways, gymnasiums, school food service areas, outdoor recreation areas, and faculty lounges. A school district or the governing body of a charter school will be required to encourage pupils, teachers, and staff to bring and carry their own reusable water bottles on campus sites. School administrators will need to duly inform teachers, staff, parents, and pupils of the overall health benefits of water consumption and encourage steady hydration through promotional and educational activities and signage. (Education Code § 38040 (New), Stats. 2022, Ch. 793, effective January 1, 2023.)

SB No. 34**Declares a Contract Entered into Because of Bribery Voidable**

Senate Bill No. 34 (Umberg) makes voidable a contract entered into because of a bribe of a public official. Existing law criminalizes a public official asking, receiving, or agreeing to receive any bribe to influence an official vote, opinion, judgement, or action. SB No. 34 makes voidable any public contract executed on or after January 1, 2023, because of an act that violates a state or federal crime relating to bribery of a public official. (Stats. 2022, Ch. 297, effective January 1, 2023.)

SB No. 118**Removes Student Enrollment as a Separate Consideration under CEQA for Community College Districts When Approving Long-Range Development Plans**

Senate Bill No. 118 (Committee on Budget and Fiscal Review) removes public college enrollment as a separate consideration under the California Environmental Quality Act (CEQA) for public higher education campus long-range development plans. Implemented as emergency legislation in the spring, this bill amends CEQA as it applies to a public community college district (CCD) or university when selecting the location for a particular campus and approving a long-range development plan. For more information, please see DWK's March 23, 2022 Bulletin: <https://www.dwkesq.com/swift-legislative-action-removes-public-college-enrollment-as-a-separate-consideration-under-ceqa-for-public-higher-education-campus-long-range-development-plans/>. (Stats. 2022, ch. 10, effective March 14, 2022.)

SB No. 490**Establishes the Buy American Food Act for Public Institutions Receiving Federal Reimbursement Funding**

Senate Bill No. 490 (Caballero) requires California public institutions, including school districts, that receive federal meal reimbursement funding to include in their solicitation for bids that only the purchase of agricultural food products grown, packed, or processed domestically is authorized. Existing law prohibits public institutions from purchasing agricultural food products grown, packed, or processed non-domestically, unless the price of the non-domestic product is more than 5% lower than the same quality products, but public K-14 schools are exempted. This bill expands the 5% differential to 25% and will now include K-14 public schools, the California Community College system and CSUs. There is an exemption, if (1) the bid or price of the nondomestic agricultural food product is more than 25% lower, (2) the quality of the domestic agricultural food product is inferior, or (3) the agricultural food product is not produced or manufactured



domestically in sufficient and reasonably available quantities to meet the institution's needs. These provisions go into effect January 1, 2024, and will apply to any contract in effect on January 1, 2024, and shall sunset January 1, 2029. (Stats. 2022, ch. 602, effective January 1, 2023.)

SB No. 913**Lowers Threshold Relating to Single-Gender Classes, Use or Disposition of Property, and Terms of Employment for LAUSD and other School Districts with ADA of 250,000 or More**

Senate Bill No. 913 (Hertzberg/Umberg) reduces the threshold for applicability of special rules related to single-gender classes, use of property, and school employee and board member employment terms applicable to school districts (including, in certain cases, charter schools) from 400,000 average daily attendance ("ADA") to 250,000 ADA. Currently, only Los Angeles Unified School District has an ADA of 250,000 or more. Senate Bill No. 913 reflects the current trend of declining enrollment in the state's school system for school districts that may in the future meet the reduced ADA threshold. (Stats. 2022, ch. 920, effective January 1, 2023.)

SB No. 954**Requires the Department of Industrial Relations to Create an Online Database of Certified Payroll Records for Multiemployer Trust Funds and Joint Labor-Management Committees**

Senate Bill No. 954 (Archuleta) requires the Department of Industrial Relations ("DIR") to create an online database of certified payroll records, which can be accessed only by certain multiemployer trust funds and joint labor-management committees. Existing law requires owners of public works projects to specify in bid and contract documents that the contractors shall pay prevailing wage and those projects will be subject to labor compliance monitoring by the DIR. As part of that monitoring, public works contractors and subcontractors are required to provide the DIR with certified payroll records on a monthly basis. Senate Bill No. 954 will require the DIR to create an online database of these certified payroll records, accessible only to certain labor organizations. Records in the database will be redacted to protect social security numbers, as provided. (Stats. 2022, ch. 824, effective January 1, 2023.)

SB No. 1226**Allows Private, Non-Profit Corporations to Enter Joint Powers Agreements with Public Agencies for Zero-Emission Transportation Services or Facilities**

Senate Bill No. 1226 (Durazo) creates new options for joint powers agreements ("JPAs") by allowing private, non-profit corporations to enter into JPAs with public agencies to enable the development, construction, and operation of

zero-emission transportation systems or facilities. Thus, the bill expands opportunities for public-private partnerships on green transportation projects. Among other requirements, JPAs formed under the bill must ensure that project contractors commit to following skilled and trained workforce requirements and paying prevailing wages. (Stats. 2022, ch. 423, effective January 1, 2023.)

SB No. 1422**Allows Use of CMAS Contracts for Acquisition and Installation of Carpet, Resilient Flooring, Synthetic Turf, or Lighting Fixtures Over the Bid Threshold with Enforceable Commitment to Use Skilled and Trained Workforce**

Senate Bill No. 1422 (Hertzberg) requires enforceable commitment to use skilled and trained workforce to use of California Multiple Award Schedule (CMAS) alternative procurement method for acquisition and installation of carpet, resilient flooring, synthetic turf or lighting fixtures. Existing law authorizes the Department of General Services and certain local agencies to use CMAS procurement without formal bidding for certain goods, information technology, and services. Senate Bill No. 1422 allows state agencies and local agencies to use of said CMAS contracts provided, the work (1) does not involve new construction, (2) the contractor acknowledges the project is a public work under the Labor Code (complies with prevailing wage requirements), and (3) the contractor commits to using a skilled and trained workforce (absent a project labor agreement requiring a skilled and trained workforce). The foregoing conditions do not apply to CMAS contracts for same under the bid threshold. State and local agencies contracting under this provision are required to provide the Department of Industrial Relations with notice. (Stats. 2022, ch. 310, effective January 1, 2023.)

BUSINESS, PROPERTY AND CONSTRUCTION CASES**LITIGATION UPDATES****Return Of Unused State Hardship Funds Not Required**

In *San Bernardino City Unified School District v. State Allocation Board* (2022) 79 Cal.App.5th 12, a California Court of Appeal held that a school district receiving hardship funding to build a school was not required to return unused funds resulting from project savings. To the extent a school district achieves a savings in its construction projects due to its efficient and prudent expenditures of funds, it may retain any unused state allocated hardship funding for other projects.

STUDENTS AND SPECIAL EDUCATION LEGISLATION AND DEVELOPMENTS

AB No. 22

Requires Collection of Student and Educator Data in State Preschool Programs

Assembly Bill No. 22 (McCarty) requires CDE to begin collecting data regarding students and educators in LEA-operated State preschool programs, by January 1, 2024. (Stats. 2022, ch. 901, effective January 1, 2023.)

AB No. 58

Requires Updates to Suicide Prevention Policy and Training Materials

Assembly Bill No. 58 (Salas) encourages LEAs to train all teachers on suicide awareness and prevention beginning in the 2024-2025 school year, and requires LEAs to update their pupil suicide prevention policies and training materials by January 1, 2025, to incorporate best practices identified in CDE's model policy. (Stats. 2022, ch. 428, effective January 1, 2023.)

AB No. 181

Makes Multiple Changes Affecting LEAs via Omnibus Education Budget Trailer Bill

Assembly Bill No. 181 (Committee on Budget) is an education omnibus budget trailer bill which makes multiple changes affecting LEAs, including:

- By April 1, 2023, LEAs must develop an annual plan describing the transportation services offered to pupils and how they will prioritize services for transitional kindergarten, kindergarten, and grades 1-6, and low-income students.
- CDE will administer a competitive grant program to help LEAs establish dual enrollment opportunities.
- To participate in the Expanded Learning Opportunities Program, which provides funding for afterschool and summer school enrichment programs for TK-6th grade, LEAs must offer access to the program to at least fifty percent of enrolled students in the 2022-2023 school year, and 75% of enrolled students starting in the 2023-2024 school year, as well as to any student whose parent or guardian requests their placement in the program.
- Changes the definition of foster children to include those children removed from their home pursuant to the temporary custody provisions of juvenile dependency law, and children who are the subject of a juvenile wardship or dependency petition.
- Creates an alternate pathway to a high school diploma for some special education students. LEAs must exempt eligible students from all LEA-



Code minimum requirements for receiving a high school diploma. Students are eligible for this alternate pathway if they take alternate assessments in grade 11 and complete State standard aligned coursework to meet the coursework requirements specified in Education Code section 51225.3.

- Establishes the California Serves Program, which promotes access to service learning opportunities for 12th grade students.
- Through July 1, 2024, LEAs can claim apportionment for students served in nonpublic schools through a "virtual program," so long as the LEA offers independent study, the parent requests independent study, and the IEP team determines the student can receive FAPE in the virtual program, among other requirements.
- Amends Education Code section 51745 to state that for students with exceptional needs, an inability to work independently, the need for adult support, or the need for special education or related services does not preclude the IEP team from determining the pupil can receive FAPE in independent study.
- LCAP Parent Advisory Committees are now required to include parents of students with disabilities enrolled in the district.
- Requires CDE to adopt a template IDEA Addendum to be included with the LCAP for LEAs identified as requiring a special education improvement plan.
- Changes participation in the California Newcomer Education and Well-Being Program to include "newcomer pupils and English learners". (Stats. 2022, ch. 52, effective June 30, 2022.)

AB No. 185

Extends the Ability to Count Career Technical Education Courses Towards Graduation to July 1, 2027; Extends the School District of Choice Program to July 1, 2028

Assembly Bill No. 185 (Committee on Budget) is a clean-up education omnibus budget trailer bill, which makes the following changes:

- The ability to count career technical education courses in lieu of foreign language or visual and performing arts credits towards graduation was originally set to sunset on July 1, 2022. Assembly Bill No. 185 extends the sunset date to July 1, 2027, or upon the occurrence of a specified event relating to career technical education requirements of the University of



the California and the California State University, whichever occurs earlier.

- Extends the school district of choice program through July 1, 2028. (Stats. 2022, ch. 571, effective September 27, 2022.)

AB No. 321

Amends Priority Order for Enrollment at State Preschools

Assembly Bill No. 321 (Valladares) amends the order in which children can access State preschool and childcare. Existing law specifies that priority be given to neglected or abused children, and then to income eligible families. Currently, if there are two or more families who are income eligible, the family with children with special needs will go first. Under this bill, second priority for income eligible families is now to be given to a child whose family's primary language is not English. (Stats. 2022, ch. 903, effective January 1, 2023.)

AB No. 408

Creates Supports for Homeless Children and Youth

Assembly Bill No. 408 (Quirk-Silva) imposes a State-mandated local program requiring LEAs to establish homeless education policies addressing the rights of homeless youth and the responsibilities of homeless liaisons. This bill also requires that liaisons annually train staff who work with or are associated with homeless students, and encourages the training of all other school employees. (Stats. 2022, ch. 904, effective January 1, 2023.)

AB No. 452

Requires Annual Notice of Firearm Safety Laws

Assembly Bill No. 452 (Friedman) requires LEAs to provide annual notice to parents and guardians, as part of the notification required by Education Code section 48980, of California's child access to firearm prevention laws, and laws relating to safe storage of firearms. CDE will provide model language for the notice. (Stats. 2022, ch. 199, effective January 1, 2023.)

AB No. 558

Requires Guidance on School Breakfast Program

Assembly Bill No. 558 (Nazarian) requires CDE, with the Department of Social Services, to develop guidance for LEAs participating in the federal School Breakfast Program on how to serve eligible non-school-aged children breakfast. The bill also requires that an adult family member or caretaker of any non-school-aged child be present for that child to receive breakfast or a morning snack. (Stats. 2022, ch. 905, effective January 1, 2023.)

AB No. 740

Changes Disciplinary Procedures Involving Foster and Indian Youth

Assembly Bill No. 740 (McCarty) makes several changes to disciplinary procedures and other matters for foster and Indian children. It modifies notification requirements to foster and Indian students' educational rights holders, attorneys, and county social workers when schools suspend, expel, and involuntarily transfer these students, and when they change their special education placement. (Stats. 2022, ch. 400, effective January 1, 2023.)

AB No. 748

Requires Posting of Mental Health Resources at Schoolsites

Assembly Bill No. 748 (Carrillo) requires LEAs serving students in grades six to twelve to display a poster with mental health resources in prominent school areas, on social media, and websites as of the 2023-2024 school year. CDE will create a model poster, which is to identify behaviors of those struggling with mental health issues, school site and community resources, and positive and negative coping strategies. (Stats. 2022, ch. 431, effective January 1, 2023.)

AB No. 1703**Establishes the California American Indian Education Act**

Assembly Bill No. 1703 (Ramos) establishes the California American Indian Education Act under which LEAs are encouraged to form task forces with Indian tribes that are local to their region or are historically located in their region. The task forces are to improve curriculum relating to the history, culture, and government of local tribes, and include tribal experiences and perspectives. (Stats. 2022, ch. 477, effective January 1, 2023.)

AB No. 1777**Authorizes Extended School Year Program for Migrant Students**

Assembly Bill No. 1777 (Aguiar-Curry) authorizes up to two LEAs to request CDE approval to provide an extended school year program for migrant students to mitigate instruction time lost due to family moves for agricultural employment. (Stats. 2022, ch. 483, effective January 1, 2023.)

AB No. 1797**Requires Disclosure of Immunization Information to State and Local Health Departments**

Assembly Bill No. 1797 (Weber) requires schools to disclose otherwise confidential immunization information to the State Department of Public Health and local health departments operating immunization information and reminder systems, including the name, age, race, ethnicity, gender, address, telephone number, and place of birth of the individual, the types of immunizations received, and any adverse reaction, and allows the State Department of Public Health and local health departments to disclose this information to schools. The bill also allows schools to perform immunization status assessments when the board has required COVID-19 immunization for school attendance. (Stats. 2022, ch. 582, effective January 1, 2023.)

AB No. 1810**Establishes Procedures for Volunteer School Employees to Administer Emergency Anti-Seizure Medication**

Assembly Bill No. 1810 (Levine) provides that, for students who have diagnosed seizures, seizure disorder or epilepsy and have been prescribed emergency anti-seizure medication, an LEA may designate one or more volunteer employees to receive training on seizure recognition and response and the administration of emergency anti-seizure medications, and establishes training standards. Before administering emergency anti-seizure medication or therapy, an LEA must obtain a seizure action plan with specified information from the parent. LEAs must distribute a notice to staff after receiving a parent's request to have anti-seizure medication administered to their student which asks for volunteers and advises employees of their rights. LEAs must provide volunteers with defense and indemnification from civil liability associated with administering medications. (Stats. 2022, ch. 906, effective January 1, 2023.)

AB No. 1868**Requires Data Reporting by English Language Acquisition and Disability Status**

Assembly Bill No. 1868 (Rivas) requires CDE to annually post data on students' performance on the California Assessment of Student Performance and Progress exam and the English Language Proficiency Assessments for California based on English learner status. It also requires CDE to post enrollment data by English language learner status and disability eligibility category. (Stats. 2022, ch. 907, effective January 1, 2023.)

AB No. 1923**Expands Partnership Academies to Include STEM Courses**

Assembly Bill No. 1923 (Mathis) expands the focus of the California Partnership Academies to include science, technology, engineering, and math (STEM) courses in addition to existing career technical education programs, and prioritizes underrepresented students and communities for new grants. (Stats. 2022, ch. 114, effective January 1, 2023.)

AB No. 2329**Authorizes Eye Exams for Glasses at Schoolsites**

Assembly Bill No. 2329 (Carrillo) authorizes LEAs to enter a memoranda of understanding with non-profit eye exam providers for noninvasive eye exams to determine students' need for eyeglasses. These eye exams are to be supplementary to and not replace the vision screening already performed by school districts. This new Education Code section 49455.5 requires that parents be notified before the exams occur, and be provided a report of the exam findings. (Stats. 2022, ch. 911, effective January 1, 2023.)

AB No. 2375**Requires that All LEAs Must Identify Homeless Children and Youth**

Assembly Bill No. 2375 (Luz Rivas) imposes a State-mandated local program requiring all LEAs to identify homeless children and unaccompanied youth enrolled at schools by administering a housing questionnaire. This bill eliminates the existing limitation that the housing questionnaire be administered only by those LEAs receiving certain funding. (Stats. 2022, ch. 912, effective January 1, 2023.)



AB No. 2508**Redefines Educational Counseling and Encourages Universal Access**

Assembly Bill No. 2508 (Quirk-Silva) urges school districts to provide access to educational counseling for all students as part of a multi-tiered systems of supports framework. This bill recasts the role and responsibilities of school counselors as providing support for academic and social-emotional development, college and career readiness for all grade levels, and crisis response. It expands the role of the counselor to providing direct services, such as individual and group counseling, risk assessment, crisis response, and instructional services, and indirect services, such as strategizing on positive school climate, making referrals for community services, and consulting with teachers and parents. It includes several additional areas in which school counselors can be asked to provide interventions and supports. (Stats. 2022, ch. 153, effective January 1, 2023.)

AB No. 2598**Requires Development of Best Practices for Restorative Justice**

Assembly Bill No. 2598 (Weber) requires CDE to develop evidence-based best practices for implementing restorative justice on school campuses. CDE is to make this information available on its website by June 1, 2024. (Stats. 2022, ch. 914, effective January 1, 2023.)

AB No. 2640**Requires Creation of Food Allergy Resource Website**

Assembly Bill No. 2640 (Valladares) tasks CDE with creating the California Food Allergy Resource website to provide guidance to LEAs in protecting students with food allergies. The website must include resources for students with food allergies, methods to initiate individualized food allergy management and prevention plans, and strategies to minimize the risk of food anaphylaxis in school. (Stats. 2022, ch. 794, effective January 1, 2023.)

AB No. 2806**Limits Expulsions and Suspensions for Behavior in State Preschools**

Assembly Bill No. 2806 (Rubio) prohibits State preschools from expelling or disenrolling students for behavior. It also limits suspensions, including by encouraging or persuading a parent to pick up the student early, to be used as a last resort in extraordinary circumstances when there is a serious safety threat, and only after collaborating with the parent and using appropriate community resources. Additionally, parents must be provided written notice of a suspension and afforded an appeal to the State Department of Social Services. Preschools must notify parents of these requirements upon enrollment. This bill also expands the types of early childhood mental health consultation services reimbursable by the State to include proactive trauma-informed, inclusive environments, as well as teleservice and group services, and includes provisions regarding staff qualifications and training. (Stats. 2022, ch. 915, effective January 1, 2023.)

**AB No. 2827****Provides for Child Daycare Facilities Outdoor Space Sharing**

Assembly Bill No. 2827 (Quirk-Silva) requires the State Department of Social Services to revise its regulations to permit children with exceptional needs who are enrolled in separate programs or classrooms to use outdoor play spaces simultaneously with nondisabled children without the need for a waiver, and to specify the health and safety requirements that must be met when simultaneous use of outdoor play spaces occurs. (Stats. 2022, ch. 916, effective January 1, 2023.)

AB No. 2832**Requires Development of the Whole Child Equity Framework and Screening Tool**

Assembly Bill No. 2832 (Rivas) requires the State Department of Social Services, with the CDE, to develop the Whole Child Equity Framework and Screening Tool by January 1, 2025, to develop data to address the equitable distribution of resources and the elimination of racial and economic inequities for children. (Stats. 2022, ch. 699, effective January 1, 2023.)

AB No. 2879**Requires Social Media Platforms to Create Procedures for Students to Report Cyberbullying**

Assembly Bill No. 2879 (Low) requires social media platforms to establish a mechanism to allow any individual to report cyberbullying or content that violates the platform's terms of service. (Stats. 2022, ch. 700, effective September 1, 2023.)

AB No. 2906**Allows Use of Automatic Dialing-Announcing Devices for Student Health and Safety Calls**

Assembly Bill No. 2906 (Patterson) amends the Public Utilities Code, which generally limits use of automatic dial-announcing devices, to allow schools to use such devices to contact parents regarding student health and safety. Previous permission to use such devices to report attendance issues continues. (Stats. 2022, ch. 36, effective January 1, 2023.)

**SB No. 532****Provides for Fifth Year of High School for Homeless and Foster Youth, Former Juvenile Court School Students, Children of Military Families, and Immigrant Children**

Senate Bill No. 532 (Caballero) changes requirements for when homeless youth, foster care children, former juvenile court school students, children of military families, and immigrant children transfer between LEAs during high school. Instead of exempting students from additional local diploma requirements, LEAs must now consult with students and educational rights holders about a fifth year of high school, and permit interested students to complete a fifth year. The transferring school must issue full and partial credits based on work completion and seat time, and the receiving school must contact the transferring school within two business days to request that it issue such credits when the new school knows the transcript may not include certain credits. (Stats. 2022, ch. 918, effective January 1, 2023.)

SB No. 906**Requires School Officials to Report Student Threats of Homicidal Acts to Law Enforcement, and Required Investigation**

Senate Bill No. 906 (Portantino) requires employees and board members whose official duties bring them in regular contact with students in grades 6 to 12 to immediately report to law enforcement (including an LEA's police or security department), any threat or perceived threat that a student is preparing to commit a homicidal act related to school or a school activity. Law enforcement is to immediately investigate and assess the threat, including by a review of the firearm registry of the Department of Justice. The investigation may also include a school search, if justified by a reasonable suspicion that it will produce relevant evidence. A "threat" can include possession, use, or depictions in a social media post, journal, class note or other media of firearms, ammunition, shootings, targets in association with infliction of physical harm, destruction, or death, and may also include a warning by a parent, student, or other person. (Stats. 2022, ch. 144, effective January 1, 2023.)

SB No. 941**Authorizes Collaboration Agreements to Address Teacher Shortages**

Senate Bill No. 941 (Portantino) authorizes LEAs to enter agreements allowing a student from one LEA to attend a course in another LEA if the first LEA's STEM classes or dual immersion program are impacted by cancellations, disruptions or teacher shortages. The collaboration agreements must provide an unbiased process for selecting students to attend. (Stats. 2022, ch. 711, effective January 1, 2023.)

SB No. 955**Excuses Absences for Middle and High School Students to Engage in Civil or Political Events**

Senate Bill No. 955 (Leyva) amends Education Code section 48205 to add attendance at certain civil or political events as excused absences for middle and high school students, provided the pupil notifies the school ahead of the absence. The bill defines a "civic or political event" to include, without limitation, voting, poll working, strikes, public commenting, candidate speeches, political or civic forums, and town halls. A student may have one of these excused absences per school year, or more at the discretion of the school administrator. (Stats. 2022, ch. 921, effective January 1, 2023.)

SB No. 1016**Adds Fetal Alcohol Spectrum Disorder as a Basis for Special Education Eligibility**

Senate Bill No. 1016 (Portantino) adds "fetal alcohol spectrum disorder" into the definition of "other health impairment" for purposes of determining special education eligibility. Further guidance on this eligibility category are to be included in section 3030 of title 5 of the California Code of Regulations. (Stats. 2022, ch. 611, effective January 1, 2023.)



SB No. 1047

Expands Early Learning Eligibility

Senate Bill No. 1047 (Limón) expands eligibility to early learning programs (childcare and development programs and the State preschool program) to families eligible to receive benefits from certain means-tested government programs such as in CalFresh, Medi-Cal, WIC or Head Start, to families experiencing homelessness, and to families with children receiving protective services. It also extends continuous eligibility for childcare from 12 to 24 months. (Stats. 2022, ch. 923, effective January 1, 2023.)

SB No. 1184

Authorizes Health Care Providers to Disclose Medical Information to Schools with Patient Consent

Senate Bill No. 1184 (Cortese) authorizes health care providers to share medical information with a school-linked services coordinator, pursuant to a HIPAA compliant patient authorization. School-linked services coordinators include individuals with a pupil personnel services or school nurse credential, or a marriage and family therapy, educational psychology, or professional clinical counseling license. (Stats. 2022, ch. 993, effective January 1, 2023.)

SB No. 1479

Requires Creation of a Covid-19 Testing Plan

Senate Bill No. 1479 (Pan) requires LEAs to adopt a Covid-19 Testing Plan, provided the Legislature appropriates funds for it. LEAs must either consult with the local health department to create a testing plan or adopt the State Department of Public Health’s May 27, 2022, Framework. LEAs are not required to include onsite testing in their plans. These requirements expire on January 1, 2026. (Stats. 2022, ch. 850, effective January 1, 2023.)

Regulatory Updates

TITLE IX CHANGES ARE COMING, AGAIN

On June 23, 2022, the U.S. Department of Education released new proposed changes to Title IX’s regulations which would expand the definition of sex-based harassment, include protections based on sexual orientation, gender identity, sex stereotypes, and pregnancy, and extend the grievance process requirements to pertain to sex discrimination as well as sexual harassment. It would also eliminate some of the complaint resolution procedures contained in the current regulations, including (for K-12) that formal complaints be submitted in writing; that the parties be entitled to have “advisors” participate in the process; that the decision-maker be different from the Title IX Coordinator or investigator; and that districts provide for a question/cross-examination process at the decision-making phase. For post-secondary schools, the new regulations would eliminate the requirement that the parties be afforded a live hearing at the decision-making stage. These regulations are still being developed, and the 2020 regulations remain largely in effect.

SECTION 504 REGULATION UPDATES ANNOUNCED

In May 2022, the U.S. Department of Education (DOE) announced a plan to review its 45-year-old Section 504 regulations “in order to strengthen and protect the rights of students with disabilities.” The DOE is still receiving public input on proposed changes as it develops its regulations. Interested LEAs are encouraged to submit comments.



DEFINED TERMS

Brown Act:	The Ralph M. Brown Act (Government Code sections 54950-54963)
Cal/OSHA:	California Division of Occupational Safety and Health
CalSTRS:	California State Teachers’ Retirement System
CDE:	California Department of Education
CFRA:	California Family Rights Act
Continuity Plan:	Learning Continuity and Attendance Plan
CPRA:	California Public Records Act
CVRA:	California Voting Rights Act
ELPAC:	English Language Proficiency Assessments for California
FAPE:	Free Appropriate Public Education
HIPAA:	Health Insurance and Accountability Act of 1996
IEP:	Individualized Education Program
LCAP:	Local Control and Accountability Plan
LEA:	Local Educational Agency
SBE:	State Board of Education
SELPA:	Special Education Local Plan Area

ABOUT THE FIRM

Dannis Woliver Kelley (DWK) is a full-service education law firm focused on serving the needs of California public school districts, county offices of education, community colleges and other educational organizations. Established in 1976, DWK was one of the first California law firms to devote its practice to governing boards, public schools and education. With more than 50 attorneys and multiple offices across the state, DWK is one of the largest women-owned law firms in the country. From board ethics to students' rights, collective bargaining to charter oversight, litigation to construction, bond finance to business and technology, DWK provides outstanding legal representation and preventive and practical counsel on key issues surrounding your core mission—the education of students.

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