



Heather DeBlanc

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EXPERIENCE

Heather DeBlanc is the Chair of the firm's Business & Facilities Practice Group. She practices education, construction, business, and employment law, representing both public and private sector clients in transactional and litigation matters, as well as administrative hearings.

Heather also has more than a decade of experience in construction law, helping clients develop efficient and smooth running construction projects. She has represented public agency project owners as well as general and sub-contractors on public works projects - with a special emphasis on educational facilities. She has extensive experience litigating and advising school districts and other public agency project owners on payment and performance issues (including delay, disruption, acceleration, and change order disputes), surety issues (including payment, performance and license bonds), bidding, prequalification, stop notices, and warranty issues.

Heather has represented private works owners in developing and negotiating design professional agreements and construction contract documents. Heather also has experience drafting bid documents and all construction contracts (including surety takeover agreements, construction management, and design professional agreements) and investigating projects during and after construction. She is adept at identifying and minimizing risk in construction contracts because of her familiarity with the construction process.

In addition to handling the full spectrum of construction issues, Heather regularly advises private schools, community college districts, k-12 schools, and special districts on vendor contracts/disputes, services agreements, facilities leasing, facilities use agreements, activities waivers, transportation agreements, community care licensing/child care licensing laws, summer camp agreements, emergency services contracts, solar power agreements, technology agreements, and best practices for risk prevention.

Heather has experience representing school districts, community college districts and private schools in matters related to, policies and procedures, grade change appeals, parent/student handbooks, employee handbooks, and employment issues. Heather also has experience advising clients on compliance with the Americans with Disabilities Act (Titles I, II and III).

Heather serves on the firm's Executive Committee of the Retirement, Health and Disability Practice Group and serves as the lead partner in both Affordable Care Act and Section 125 Plans practice. Heather has prominent expertise advising employers on health benefits, including advising clients on compliance with Section 125 plans, cash-in-lieu options, the Affordable Care Act (ACA) and the Americans with Disabilities Act (Titles I, II and III).

Heather advises on ACA issues such as the employer shared responsibility provisions, affordability calculations, health flex contributions, cash-in-lieu, penalties, reporting and notice requirements, non-discrimination provisions, appeals procedures for challenging exchange subsidy determinations and IRS penalties. She

provides clients with assistance revising policies and procedures and adopting resolutions or plans to implement this law. She advises on collective bargaining language and changes needed to existing eligibility provisions in line with the ACA. She regularly provides training to clients on best practices for compliance.

Heather's employment experience includes handling issues relating to hiring, terminations, discrimination, and administrative hearings related to disciplinary actions.

EDUCATION

BA, University of California, Santa Barbara
JD, Pepperdine University School of Law

LEGAL EXPERTISE

Affordable Care Act
Business, Construction, and Facilities
Employment Law
Litigation Services
Private Education
Public Education
Public Safety
Retirement, Health & Disability

REPRESENTATIVE MATTERS

AFFORDABLE CARE ACT / HEALTHCARE

Cafeteria Plans (Section 125) (2017) - Prepared Section 125 Plans and collective bargaining agreement language for health benefit arrangements for multiple clients.

HIPAA (2017) - Advised client on HIPAA compliance relating to a third party contract for medical billing services.

Affordable Care Act (2016) - Advised multiple clients on eligible opt out arrangements and health flex contributions, including revision of collective bargaining agreements to minimize risk of the employer shared responsibility payment. Prepared opt-out forms.

Affordable Care Act (2016) - Advised multiple clients on the applicable large employer determination.

Tri-CARE (2016) - Advised client on issues relating to Tri-CARE and health benefit structure.

Cafeteria Plans (Section 125) (2016) - Prepared Section 125 Plans for multiple clients. Advised clients on Health Flexible Spending Accounts.

Affordable Care Act (2015) - For many clients, advised on exposure risk related to employer mandate and the Look Back Measurement Method Safe Harbor.

Affordable Care Act (2014) - Analyzed potential penalty exposure and developed a comprehensive plan for City's compliance with ACA.

Affordable Care Act (2014) - Advised community college district and prepared a comprehensive plan on

options to comply with ACA relating to part-time faculty and temporary employees.

COBRA (2014) - Advised community college districts and cities on various COBRA issues including its intersection with the ACA.

BUSINESS AND FACILITIES

Solar Panel Agreement (2017) - Negotiate agreement for solar panels and power.

Facilities -Seismic Issues (2017) - Evaluated seismic issues and provided advice to private school for risk assessment.

Vendor Contracts (2016) - Advised various clients on contracts for food services, cell phone services, and other vendors.

Summer Camp Agreement (2016) - Drafted Summer Camp Agreement for private school.

Swimming Pool Policy (2016) - Drafted Swimming Pool policy for facilities at private school.

Design Professional Agreements (2016) - Prepared various design professional agreements for community college districts and private schools.

Unauthorized Use of Photographs (2016) - Advised private school relating to another schools unauthorized use of student photographs to promote business.

Fundraising Issues (2016) - Advised private school on fundraising issues and related agreements.

Commercial Lease (2016) - Prepared several commercial lease agreements for private schools.

Facilities Use Agreement (2016) - Prepared parking lot facilities use agreement for private school.

Parking Lot Contract Dispute (2016) - Resolved dispute between community college district and utility company through mediation relating to responsibility for parking lot subsidence.

HIPAA Business Associate Advice (2016) - Advised private school on HIPAA requirements relating to business associate agreement and negotiated same.

Child Care Licensing Issues (2016) - Advised on applicable regulations and requirements of Title 22. Advised on obtaining license and potential exemptions from licensure.

Independent Contractor Agreements (2016) - Advised various clients on independent contractor status and prepared agreements with independent contractors.

Student Travel Program (2016) - Assisted private school to minimize risk with student travel program abroad by drafting waivers, host agreements, and other related contracts.

Services Agreements (2016) - Prepared various services agreement, including elevator services agreement for private school.

Facilities Mold Problems (2016) - Advised private school on handling of mold issue in classrooms.

Transportation Agreements (2016) - Drafted Transportation Agreement for private school for bus services.

Facilities Use Agreements (2015) - Prepared summer camp agreement for private school.

Lease Leaseback (2015) - Prepared contract documents for construction of library at k-12 district through lease leaseback project delivery method.

Occupancy Agreement for Employee Housing (2015) - Prepared agreement employees who rent residences on campus.

On Campus Disaster Preparedness (2015) - Prepared disaster preparedness plan for private school in compliance with Title 22 regulations for child care facilities.

Donations/Gifts (2015) - Advised private schools on donation agreements.

Credit Card Fees (2015) - Advised private school on credit card fee issues.

Off Campus Catering/On Campus Alcohol (2015) - Advised community college district on legal risks relating to off campus catering and wine pairing classes.

Student Exchange Program (2015) - Advised community college district and drafted contracts regarding student exchange program.

Workforce Investment Act (2014) - Prepared terms of a Workforce Investment Act agreement for a community college district to ensure that the district would not lose Federal funding for their employment center.

Website Terms and Conditions (2014) - Prepared terms and conditions for a career services website and a housing website to reduce the risk of claims relating to privacy issues, copyright issues, and other potential liability.

Vendor Contracts (2014) - Analyzed a transportation contract for a school district to reduce the potential risk of claims.

Vendor Contracts (2014) - Analyzed and negotiated a parking meter services contract for a community college district to reduce the risk of claims.

HITECH Act (2014) - Analyzed a Business Associate Agreement for City to determine compliance with HIPAA's HITECH Act.

Human Trafficking (2014) - Advised community college district on postings on Human Trafficking required for their bus station.

Institutional Review Board (2014) - Advice regarding planning and development of an Institutional Review Board, which governs research involving human subjects, for a community college district.

Political Activity/Facebook Political Ads (2013) - Several community college districts discovered that their names and likeness were being used without permission on Facebook by an association to promote political ads. After cease and desist letters citing to a violation of Education Code section 72000 and

negotiations, the ads were removed.

Campaign Materials (2013) - Advised community college district regarding a photograph of a teacher with students, for use during a City Council election.

OTHER

Americans with Disabilities Act (2016) - Advised client on compliance with ADA compliance, grievance procedures, and ADA training.

Employer Payments to Beneficiaries of Deceased Employee (2013) - Advised community college district as to how to proceed with vacation payoff to a beneficiary under relevant Probate statutes. The issue also involved Power of Attorney issues.

Disability Discrimination Claim (2013) - A blind student brought claims with Office of Civil Rights (OCR) of disability discrimination against a community college district. The DPS Director accommodated the student in various ways. Heather negotiated with OCR and opposing counsel to resolve the issues. OCR dismissed the complaint.

ADMINISTRATIVE HEARINGS

Employee v. Community College District (2015) - Employee appealed his termination from the District where he worked as a custodian. The District terminated his employment due to his theft of books from the book store. Employee pled the Fifth Amendment at the hearing and refused to put on evidence. He objected on various discovery grounds. The hearing officer recommended the termination be upheld and the Board upheld the termination. Employee did not appeal.

Employee v. City (2014) - The City terminated a human resources analyst for doing her husband's homework on City time. The hearing officer upheld all of the factual allegations, but recommended suspension rather than termination. The City Manager upheld the termination. The employee filed a writ petition. Heather opposed the petition and conducted an oral argument on behalf of the City. The writ was denied.

Employee v. Community College District (2014) - A classified employee brought a grievance that the district prematurely ended her light duty assignment. The District put her on leave when her light duty assignment ended at the time her temporary condition became permanent, pursuant to the terms of the CBA. She requested that the District restore extended sick leave and vacation hours she had used. The arbitrator denied the grievance in its entirety.

Employee v. Community College District (2014) - The District terminated a custodian because he was part of an operation where custodians were stealing books from the bookstore and selling them to students. The employee appealed. The hearing officer recommended that the appeal be denied.

Employee v. City (2012) - Employee, a Motor Coach Operator, was terminated for rear-ending a car on Lincoln Blvd. He also had several previous preventable and non-preventable accidents in the past. The employee was terminated for failure to practice defensive driving despite efforts at retraining. The hearing officer recommended that the termination be sustained. The Personnel Board upheld the termination.

Employee v. City (2012) - Employee was suspended for repeatedly failing to follow orders to conceal her pink, then purple hair. She was suspended for failure to follow the Department's grooming policy and insubordination. The Personnel Board upheld the suspension.

City Police Officer Discipline Appeal Hearing (2012) - In a police officer discipline appeal hearing handled by Heather DeBlanc of our Los Angeles Office, a police department prevailed against a police officer who appealed his termination. The officer was terminated for purchasing human growth hormone and steroids in a parking lot without a prescription. The evidence supporting his termination was initially gathered as part of a separate criminal investigation of an officer from the police department. Text messages discovered during this separate criminal investigation evidenced that the officer was engaging in illegal drug transactions. During the internal affairs investigation, the officer failed to provide truthful information about the text messages, the transactions and his use of the performance-enhancing drugs.

AFFILIATIONS

California Council of School Attorneys (CCSA)

PUBLICATIONS

Federal District Court Strikes Down Affordable Care Act. What Now for Employers?, Dec 17, 2018

Risk and Liability in the Era of Ride Sharing, Jul 20, 2018

ACA Reporting Relief - Written Statement to Covered Individuals Now Due March 2, 2018; Good Faith Penalty Relief Extended, Jan 4, 2018

Affordable Care Act Reporting Draws Near, Oct 5, 2017

IRS Releases Proposed Regulations Regarding the Affordable Care Act's Calculation of Coverage Affordability for Employers Offering Opt-Out Payments, Sep 14, 2016

IRS Releases Proposed Regulations Regarding the Affordable Care Act's Calculation of Coverage Affordability for Employers Offering Opt-Out Payments, Aug 19, 2016

IRS Extends Affordable Care Act Reporting Deadlines, Jan 4, 2016

President Obama Postpones Cadillac Tax and IRS Releases Further Guidance on the Affordable Care Act - Everything Public Employers Need to Know, Jan 4, 2016

President Obama Postpones Cadillac Tax and IRS Releases Further Guidance on the Affordable Care Act - Everything Private Employers Need to Know, Jan 4, 2016

New Annual Reporting Requirements for Employers under the Affordable Care Act, Nov 10, 2015

Liebert Cassidy Whitmore Announces Melanie Chaney, Heather DeBlanc, and Frances Rogers Named Partners, *Press Release* Sep 14, 2015

New Bid Limit of \$84,100 for School and Community College District Contracts, Jun 15, 2015

Minimizing Potential Liability Regarding Summer Camps, Jul 14, 2014

It's Time To Amend Your Instructions To Bidders On Public Works Projects, *Business & Facilities* Jun 19, 2014

Liquidated Damages Provisions in Contract Did Not Bear Rational Relationship to Damages from

Breach of Agreement, *Business & Facilities* Jun 5, 2014

An Easement "Over" a Parcel Does Not Make the Entire Area of the Parcel Subject to the Use without Evidence of the Parties Clear Intent to Extend Use to the Entire Easement Area., *Business & Facilities* Feb 13, 2014

PRESENTATIONS

Managing the Risk and Reward of Extended Field Trips - Reviewing Your Student Travel Programs, California Independent Schools Business Officers Association (Cal-ISBOA) Annual Conference, North Hollywood, Apr 29, 2019

Cafeteria Plan Compliance - Mid-Year Election Changes and More, Apr 15, 2019

Riding Together: Risk and Liability in the Ride-Share Era, National Business Officers Association (NBOA) Annual Meeting, San Diego, Mar 6, 2019

Construction: Transforming Your Campus in Our Evolving World, National Business Officers Association (NBOA) Annual Meeting, San Diego, Mar 4, 2019

Safety and Security in Our Schools, California Association of Independent Schools (CAIS) Trustee/Head of School Conference, Westlake Village, Feb 2, 2019

2018 Government Tax and Employee Benefits Seminar, Government Tax Seminars (GTS) Annual Government Tax and Employee Benefits Seminar, Millbrae, Dec 11, 2018

Health Benefits: Identifying Red Flags For Labor Negotiators, California Public Employer Labor Relations Association (CALPELRA) Annual Conference, Monterey, Dec 6, 2018

2018 Government Tax and Employee Benefits Seminar, Government Tax Seminars (GTS) Annual Government Tax and Employee Benefits Seminar, Lakewood, Dec 4, 2018

2018 Government Tax and Employee Benefits Seminar, Government Tax Seminars (GTS) Annual Government Tax and Employee Benefits Seminar, Irvine, Nov 29, 2018