LCW 2023

PRIVATE EDUCATION LEGISLATIVE ROUNDUP

This is a compilation of bills, presented by subject, which were signed into law and have an impact on the employment, student, and business related issues of our clients. Unless the bills were considered urgency legislation (which means they went into effect the day they were signed), bills primarily take effect on January 1, 2024, unless indicated otherwise. Urgency legislation will also be identified as such. Several of the bills summarized below apply directly to independent and private schools, colleges and universities. Bills that do not directly apply are presented either because they indirectly apply, may set new standards that apply or would generally be of interest to our independent and private education clients.

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EMPLOYEES

LEAVE ENTITLEMENTS

SB 616 – Amends California's Paid Sick Leave Law.

Senate Bill 616 (SB 616) makes several changes to employee paid sick leave entitlements under California's Paid Sick Leave law. These changes include those set forth below, and take effect on January 1, 2024.

Modifies the "Full Amount" of Paid Sick Leave Method to be Frontloaded

Under existing law, employers who frontload the "full amount" of paid sick leave at the beginning of each year of employment, calendar year, or 12-month period are not required to allow employees to accrue or carryover unused paid sick leave to the following year. Under existing law, the "full amount" of paid sick leave is 24 hours (or 3 days). SB 616 increases the "full amount" of paid sick leave to 40 hours (or 5 days).

Modifies the Paid Sick Leave Accrual Method

Under existing law, employers who adopt an accrual method for paid sick leave must permit employees to accrue paid sick leave under one of the following methods:

1. At a **standard accrual rate** of not less than one hour per every 30 hours worked beginning at the commencement of employment; or

2. At an **alternate accrual rate**, established by the employer, as long as accrual is on a regular basis so that the employee has no less than 24 hours (or 3 days) of accrued paid sick leave by the 120th calendar day of employment, or each calendar year or 12-month period.

SB 616 modifies this **alternate accrual rate** to require that, in addition to the requirement set forth above, the rate must be such that employees also accrue no less than 40 hours (or 5 days) of paid sick leave by the 200th calendar day of employment, or each calendar year or 12-month period.

Increases the Minimum Accrual Cap

Under existing law, the minimum accrual cap for paid sick leave is 48 hours (or 6 days). SB 616 increases this minimum accrual cap to 80 hours (or 10 days).

Increases Minimum Limit for Use of Accrued Paid Sick Leave

Under existing law, *accrued* paid sick leave must carry over to the following year of employment, but an employer is permitted to limit an employee's use of accrued paid sick leave to a minimum of 24 hours (or 3 days) in each year of employment, calendar year, or 12-month period.

SB 616 increases the minimum limit that an employer may impose on an employee's use of accrued paid sick leave to 40 hours (or 5 days) in each year of employment, calendar year, or 12-month period.

Expressly States Certain Provisions Preempt Local Ordinances

SB 616 expressly states that certain provisions of Labor Code Section 246 preempt any local ordinance to the contrary. To the extent California's Paid Sick Leave law is more favorable to an employee than a local sick leave ordinance, employers must follow California state law.

(As relevant to private schools, SB 616 amends Section 245.5 of the Labor Code.)

SB 848 – Entitles Eligible Employees To Leave For Reproductive Loss.

Effective January 1, 2024, Senate Bill 848 (SB 848) requires the following employers to provide reproductive loss leave to eligible employees under specified circumstances:

1. Any person who employs five (5) or more persons to perform services for a wage or salary; and

2. The state and any political or civil subdivision of the state, including, but not limited to, cities and counties.

An employee is eligible for reproductive loss leave after at least 30 days of employment. An eligible employee is entitled to take up to five days of reproductive loss leave (which may be taken nonconsecutively) per reproductive loss event, up to a total amount of 20 days of reproductive loss leave within a 12-month period.

A reproductive loss event means "the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction" (i.e., an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure). Employees under the following circumstances related to a reproductive loss event are eligible for reproductive loss leave:

- A failed adoption event applies to an employee who would have been a parent of the adoptee if the adoption had been completed.

- A failed surrogacy event applies to an employee who would have been a parent of a child born as a result of the surrogacy.

- A miscarriage event applies to an employee who experienced a miscarriage, who is the current spouse or domestic partner of a person who experienced a miscarriage, or who would have been a parent of a child born as a result of a pregnancy that resulted in miscarriage.

- A stillbirth event applies to an employee whose pregnancy resulted in a stillbirth, who is the current spouse or domestic partner of a person whose pregnancy resulted in a stillbirth, or who would have been a parent of a child born as a result of a pregnancy that resulted in stillbirth.

- An unsuccessful assisted reproduction event applies to an employee who experienced such event, who is the current spouse or domestic partner of a person who experienced such event, or who would have been a parent of a child born as a result of a pregnancy had the assisted reproduction been successful.

Reproductive loss leave must be taken within three (3) months of the reproductive loss event. However, if, prior to or immediately following a reproductive loss event, an employee is on or chooses to go on Pregnancy Disability Leave (Gov. Code, Section 12945), leave under the California Family Rights Act (Gov. Code, Section 12945.2), or any other leave entitlement under state or federal law, the employee must complete their reproductive loss leave within three (3) months of the end date of the other leave.

Reproductive loss leave is taken pursuant to any existing applicable leave policy the employer may have. If the employer does not have an existing applicable leave policy, the reproductive loss leave may be unpaid, except that an employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee.

SB 848 requires employers to maintain employee confidentiality relating to requests for and any information received concerning reproductive loss leave, and prohibits employers from disclosing any such information except to internal personnel or counsel, as necessary, or as required by law. SB 848 is silent on whether an employer may request documentation supporting an employee's need for reproductive loss leave.

Under SB 848, it is an unlawful employment practice for an employer to refuse to grant a request from an eligible employee to take reproductive loss leave, or for an employer to retaliate against an eligible employee because the employee exercised the right to reproductive loss leave or gave information or testimony as to reproductive loss leave. It is also an unlawful employment practice for an employer to interfere with, restrain, deny the exercise of, or deny the attempt to exercise the rights afforded to employees under the reproductive loss leave law.

(SB 848 adds Section 12945.6 to the Government Code.)

NON-COMPETE AGREEMENTS

AB 1076 And SB 699 – Codify California Law Significantly Limiting The Permissibility Of Non-Compete Agreements.

Assembly Bill 1076 (AB 1076) and Senate Bill 699 (SB 699) both address non-compete clauses and non-compete agreements.

Under existing case law, every contract that restrains anyone from engaging in a lawful profession, trade, or business of any kind is – to that extent – void. AB 1076 codifies existing case law to void the application of any non-compete agreement in an employment context, or any non-compete clause in an employment contract, no matter how narrowly tailored.

A violation of this prohibition is an act of unfair competition pursuant to the Unfair Competition Law (UCL), which makes various practices unlawful and makes a person who engages in unfair competition liable for a civil penalty. Employers must provide written notification, by February 14, 2024, to all current employees and any former employees who were employed after January 1, 2022, who were required to enter into a non-compete agreement or an agreement with a non-compete clause, unless such non-compete agreement/clause satisfied an exception expressly provided for under California law. The written notice must be an individualized communication to the specific employee or former employee, must inform that the non-compete agreement or clause is void, and must be delivered to the individual's last known address and email address. Failure to comply with the written notice requirements is an act of unfair competition pursuant to the UCL.

Similarly, SB 699 establishes that a non-compete agreement that is void under California law is unenforceable regardless of where and when it was signed, and prohibits current and former employers from attempting to enforce a void non-compete agreement regardless of whether it was signed and the employment was maintained outside of California.

SB 699 makes it a civil violation for an employer to enter into or to attempt to enforce a void non-compete agreement. An employee, former employee, or prospective employee may bring a private action to enforce their rights under these laws for injunctive relief or the recovery of actual damages, or both, and are entitled to recover reasonable attorney's fees and costs if they prevail in such action.

(AB 1076 amends Section 16600 of and adds Section 16600.1 to the Business and Professions Code and SB 699 adds Section 16600.5 to the Business and Professions Code.)

PROTECTED ACTIVITY & RETALIATION

SB 497 – Enhances Protections For Employees And Applicants Who Engage In Certain Protected Activity.

Under existing law, the Labor Code prohibits certain employers from retaliating against an employee or applicant because the employee or applicant engaged in certain protected activity.

Under existing law, Labor Code Section 98.6 prohibits an employer from discharging an employee or in any manner discriminating, retaliating, or taking any adverse action against any employee or applicant for employment because the employee or applicant, as applicable, engaged in certain protected activity, including certain whistleblower activity under Labor Code Section 1102.5. Under existing law, Labor Code Section 1197.5 generally prohibits employers from discharging, or in any manner discriminating or retaliating against, any employee because the employee invoked or assisted in any enforcement of California's Equal Pay Act.

Effective January 1, 2024, Senate Bill 497 (SB 497) creates a rebuttable presumption in favor of an employee or applicant's claim if the employer engaged in retaliation or other conduct prohibited by these laws within 90 days of the time the employee or applicant engaged in the relevant protected activity. As a result, SB 497 makes it easier for employees and applicants to establish a prima facie case of retaliation.

Under existing law, Labor Code Section 1102.5 generally prohibits an employer from retaliating against an employee for engaging in certain whistleblower related activity, as specified, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties. Section 1102.5 also generally prohibits employers from retaliating against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

SB 497 modifies an employer's penalties for a violation of Section 1102.5 to include a civil penalty not exceeding $10,000 per employee for each violation, which is awarded to the employee who was retaliated against. SB 497 requires the Labor Commissioner, in assessing this penalty, to consider the nature and seriousness of the violation based on the evidence obtained during the course of the investigation, which shall include, but is not limited to, the type of violation, the economic or mental harm suffered, and the chilling effect on the exercise of employment rights in the workplace.

(SB 497 amends Sections 98.6, 1102.5, and 1197.5 of the Labor Code.)

DISCRIMINATION

SB 700 – Modifies Law Prohibiting Employment Discrimination Based On Applicant Or Employee's Off-The-Job Cannabis Use.

Under existing law, the California Fair Employment and Housing Act (FEHA), effective January 1, 2024, makes it unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person if the discrimination is based on either of the following:

1. The person's use of cannabis off the job and away from the workplace

2. An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.

Existing law does not, however, permit an employee to possess, to be impaired by, or to use, cannabis on the job, nor does existing law affect the rights or obligations of an employer to maintain a drug- and alcohol-free workplace, as required by law. Existing law also does not prohibit an employer from discriminating in hiring, or any term or condition of employment, or otherwise penalize a person based on scientifically valid pre-employment drug screening conducted through methods that do not screen for nonpsychoactive cannabis metabolites. Finally, existing law does not preempt state or federal laws requiring applicants or employees to be tested for controlled substances, including laws and regulations requiring applicants or employees to be tested, or the manner in which they are tested, as a condition of employment.

Effective January 1, 2024, Senate Bill 700 (SB 700) makes it unlawful for an employer to request information from an applicant for employment relating to the applicant's prior use of cannabis. A person's prior cannabis use obtained from the person's criminal history may only be considered or inquired into to the extent the employer is permitted to do so under California's Fair Chance Act (Gov. Code, Section 12952), or other state or federal law.

SB 700 falls under the general definition of "employer" under the FEHA and, therefore, it applies to any employer regularly employing five or more persons, but does not apply to a nonprofit religious corporation.

(SB 700 amends Section 12954 of the Government Code.)

AB 933 – Expands Defamation Protections For Claims Of Sexual Harassment, Discrimination, And Retaliation.

Existing law makes certain written and oral publications and communications privileged and therefore protected from civil action, including complaints of sexual harassment by an employee, made without malice, to an employer based on credible evidence and communications between the employer and interested persons regarding a complaint of sexual harassment.

Effective January 1, 2024, Assembly Bill 933 (AB 933) adds to those privileged communications a communication made by an individual, without malice, regarding an incident of sexual assault, harassment, or discrimination. This privilege applies to an individual who has, or at any time had, a reasonable basis to file a complaint of sexual assault, harassment, or discrimination, whether the complaint was filed or not. For the purposes of AB 933, a "communication" means factual information related to an incident of sexual assault, harassment, or discrimination arising under certain laws, such as the Fair Employment and Housing Act (FEHA), which is experienced by the individual making the communication.

AB 933 makes attorney's fees and damages available to a prevailing defendant in any defamation action brought against that defendant for making that privileged communication, plus treble damages for any harm caused to them by the defamation action against them and any punitive damages or other relief otherwise permitted by law.

(AB 933 adds Section 47.1 to the Civil Code.)

AB 1756 – Extends The Sunset Of The Civil Rights Department Small Employer Mediation Program.

Under existing law, the California Civil Rights Department (CRD) maintains a small employer mediation program for employers with between 5 and 19 employees. Under this program, when an employee of a small business requests an immediate "right-to-sue notice" alleging a violation of the California Family Rights Act (Gov. Code, Section 12945.2) or California's Bereavement Leave Law (Gov. Code, Section 12945.7), the CRD notifies the employee in writing of the requirement to participate in mediation prior to filing a civil action if mediation is requested by the employer or employee. Existing law also sets forth the procedure and obligations for the mediation and related matters.

Under existing law, the small business mediation program sunsets on January 1, 2024. Assembly Bill 1756 (AB 1756) extends the program until January 1, 2025.

(As relevant to private schools, AB 1756 amends Section 12945.21 of the Government Code.)

ARBITRATION

SB 365 – Eliminates Automatic Stay Of Trial Court Proceedings During Pendency Of Appeal Of Order Dismissing Or Denying Petition To Compel Arbitration.

Existing law authorizes a party to appeal, among other things, an order dismissing or denying a petition to compel arbitration. Under existing law, when the appeal is "perfected" (i.e., all court rules, procedures, and time lines are fully complied with), any trial court proceedings are automatically "stayed" (i.e., suspended) during the pendency of the appeal.

Effective January 1, 2024, Senate Bill 365 (SB 365) provides that, notwithstanding the general rule described above, perfecting an appeal does not automatically stay trial court proceedings during the pendency of an appeal of an order dismissing or denying a petition to compel arbitration.

(SB 365 amends Section 1294 of the Code of Civil Procedure.)

AB 594 – Authorizes A Public Prosecutor To Enforce Certain Labor Code Violations Until January 1, 2029, And Provides That Employment Arbitration Agreements Do Not Limit A Public Prosecutor Or Labor Commissioner's Enforcement Authority.

Effective January 1, 2024, Assembly Bill 594 (AB 594) authorizes, until January 1, 2029, a public prosecutor, as defined, to prosecute an action, either civil or criminal, for a violation of specified provisions of the Labor Code or to enforce those provisions independently and without specific direction from the Division of Labor Standards Enforcement (DLSE). A "public prosecutor" means the Attorney General, a district attorney, a city attorney, a county counsel, or any other city or county prosecutor. A public prosecutor is limited to redressing violations occurring within the public prosecutor's geographic jurisdiction, unless the public prosecutor has statewide authority or certain enforcement authority. As relevant to private schools, the authority granted to public prosecutors does not extend to certain actions, such as those under the Private Attorneys General Act of 2004 (PAGA), those falling under the Department of Industrial Relations (e.g., workplace safety standards set by Cal/OSHA), or those relating to workers' compensation.

Any moneys recovered by public prosecutors will be applied first to payments, such as wages, damages, and other penalties, due to the affected workers, while civil penalties recovered by a public prosecutor will generally be paid to the California General Fund. A public prosecutor may also seek injunctive relief to prevent continued violations. A court may award a prevailing public prosecutor its reasonable attorney's fees and costs, including expert witness fees and costs to the extent the Labor Commissioner would be entitled to such fees and costs. Generally, the Labor Commissioner has the right

to intervene in any court proceeding brought by a public prosecutor under this law.

Importantly, AB 594 provides that any individual agreement between a worker and employer that purports to limit representative actions or to mandate private arbitration (e.g., employment arbitration agreement) have no effect on the authority of the public prosecutor or the Labor Commissioner to enforce the Labor Code. Further, any appeal of a denial of a motion to compel arbitration or other court filing to impose an arbitration agreement does not stay enforcement actions by the public prosecutor or the Labor Commissioner.

AB 594 also amends existing law to authorize a public prosecutor or the Labor Commissioner to enforce the law prohibiting willful misclassification of an employee as an independent contractor, through specified methods, including by issuing a citation or filing a civil action. If a public prosecutor or the Labor Commissioner recovers damages payable to an affected employee, the employee may either recover these damages or enforce the penalties under PAGA, but not both for the same violation.

(AB 594 amends Sections 218 and 226.8 of, adds Chapter 8 (commencing with Section 180) to Division 1 of, and repeals Section 181 of, the Labor Code.)

WORKPLACE SAFETY

SB 553 – Establishes Workplace Violence Prevention Obligations.

Under existing law, covered employers are required to have an effective injury and illness prevention program. Effective July 1, 2024, Senate Bill 553 (SB 553) requires covered employers to establish, implement, and maintain, at all times in all work areas, an effective workplace violence prevention plan. The workplace violence prevention plan must be in writing and be available, contain specified information, and be easily accessible to employees at all times. The workplace violence prevention plan may be incorporated as a stand-alone section in the employer's written injury and illness prevention program or maintained as a separate document.

SB 553 also requires the following of covered employers:

- Record information in a violent incident log for every workplace violence incident.
- Provide effective training to employees on the workplace violence prevention plan, among other things, and provide additional training when a new or previously unrecognized workplace violence hazard has been identified and when changes are made to the plan.
- Maintain records of workplace violence hazard identification, evaluation, and correction.
- Create and maintain training records.
- Create and maintain violent incident logs and workplace incident investigation records.
- Make certain records available to the Division of Occupational Safety and Health (better known as Cal/OSHA), employees, and, if any, employee representatives.

(SB 553 amends, repeals, and adds Section 527.8 of the Code of Civil Procedure, and amends Section 6401.7 of, and adds Section 6401.9 to, the Labor Code.)

TEMPORARY RESTRAINING ORDERS

SB 428 – Authorizes Employers To Obtain Temporary Restraining Orders On Behalf Of Employees Who Have Experienced Harassment.

Existing law authorizes an employer whose employee has suffered unlawful violence or a credible threat of violence from any individual that can reasonably be construed to be carried out or to have been carried out at the workplace, to seek a temporary restraining order on behalf of the employee and, if appropriate, other employees. Existing law also requires an employer seeking a temporary restraining order to show reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the respondent, and that great or irreparable harm would result to an employee. Existing law prohibits issuing a temporary restraining order to the extent it would prohibit speech or other activities that are constitutionally protected or otherwise protected by law.

Effective January 1, 2025, Senate Bill 428 (SB 428) additionally authorizes an employer whose employee has suffered harassment to seek a temporary restraining order on behalf of the employee and, if appropriate, other employees upon a showing of clear and convincing evidence that:

- The employee has suffered harassment by the respondent;
- Great or irreparable harm would result to the employee;
- The course of conduct at issue served no legitimate purpose; and
- The issuance of the order would not prohibit speech or other activities that are constitutionally protected,

protected by the National Labor Relations Act (29 U.S.C. Sections 151, et seq.), or otherwise protected by law.

For the purposes of SB 428, "harassment" is defined as "a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose … which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress."

(SB 428 amends, repeals, and adds Section 527.8 of the Code of Civil Procedure.)

TAX NOTICES TO EMPLOYEES

Assembly Bill 1355 (AB 1355) – Authorizes Employers To Provide Certain Required Tax Information To Employees Electronically.

The Earned Income Tax Credit Information Act requires any California employer who is subject to, and is required to provide, unemployment insurance to their employees, under the Unemployment Insurance Code, to notify all employees that they may be eligible for Volunteer Income Tax Assistance (VITA), CalFile, and state and federal antipoverty tax credits, including the state and federal Earned Income Tax Credit (EITC). Employers must send this notice twice per year. The first notice must be sent within one week before or after, or at the same time, that the employer provides employees their annual wage summary, such as a Form W-2 or a Form 1099. The second notice must be sent to employees during the month of March in the same year the first notice was sent. Employers must either hand deliver the notices to employees, or mail the notices to the employee's last known address. However, employers may send the second notice electronically.

From January 1, 2024 until January 1, 2029, Assembly Bill 1355 (AB 1355), authorizes employers to provide the first notice to employees via email to an email account of the employee's choosing, instead of directly handing or mailing the document if an employee affirmatively, and in writing or by electronic acknowledgment, opts into receipt of electronic statements or materials. AB 1355 prohibits an employer from discharging or taking other adverse action against an employee who does not opt into receipt of electronic statements or materials.

Existing law requires an employer to supply, pursuant to authorized regulations, copies of printed statements or materials relating to claims for benefits to each employee at the time they become unemployed. AB 1355 authorizes employers, from January 1, 2024 until January 1, 2029, to provide the above-described notification concerning statements and materials for benefits via email to an employee's email account, if the employee affirmatively, and in writing, by email, or by some form of electronic acknowledgment, opts into receipt of electronic statements or materials. The electronic acknowledgment form must include all of the following:

- Fully explain that the employee is agreeing to electronic delivery of the notification.
- Provide the employee with information about how they can revoke consent to electronic receipt.
- Create a record of the employee's agreement to electronic delivery of the notification.

The employee must be given the opportunity to opt out of receiving electronic statements or materials at any time in writing, by email, or by some form of electronic acknowledgment.

AB 1355 prohibits the employer from discharging or taking other adverse action against an employee who does not opt into receipt of electronic statements or materials.

AB 1355 makes other changes to these laws, which take effect on January 1, 2029.

(AB 1355 amends, repeals, and adds Section 19853 of the Revenue and Taxation Code, and amends, repeals, and adds Section 1089 of the Unemployment Insurance Code.)

WORKERS' COMPENSATION

AB 489 – Extends Use of Prepaid Cards For Workers' Compensation Disability Payments To January 1, 2025.

Under California's workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, existing law governs temporary and permanent disability indemnity payments. Current law, until January 1, 2024, allows an employer to commence a program under which disability indemnity payments are deposited in a prepaid card account for employees. Assembly Bill 489 (AB 489) extends the authorization to deposit indemnity payments in a prepaid card account until January 1, 2025.

(AB 489 amends Section 4651 of the Labor Code.)

STUDENTS

CHILDHOOD SEXUAL ASSAULT

AB 452 – Eliminates The Statute Of Limitations For Claims For Childhood Sexual Assault Arising On Or After January 1, 2024.

Effective January 1, 2024, Assembly Bill 452 (AB 452) eliminates the time limits for an individual who experienced childhood sexual assault occurring on or after January 1, 2024, to commence a claim for the recovery of damages in certain actions. AB 452 applies to the following actions:

1. An action against any person for committing an act of childhood sexual assault;

2. An action for liability against any person or entity who owed a duty of care to the victim of sexual assault, if that person or entity's wrongful or negligent act was a legal cause of the childhood sexual assault that caused the victim's injury; and

3. An action for liability against any person or entity if an intentional act by that person or entity was a legal cause of the childhood sexual assault that caused the victim's injury.

Any claims for damages based on the above conduct in which the childhood sexual assault occurred on or before December 31, 2023, remains subject to the applicable statute of limitations set forth in the law as it read on December 31, 2023.

(AB 452 amends Section 340.1 of the Code of Civil Procedure.)

IMMUNIZATIONS

AB 659 – Enacts The Cancer Prevention Act.

Effective January 1, 2024, Assembly Bill 659 (AB 659), or the Cancer Prevention Act, requires the governing authority of a private elementary or secondary school to provide to pupils and their parents/legal guardians upon each pupil's admission or advancement to the sixth grade a written notification containing the following:

1. A statement about the state's public policy that pupils in California should adhere to current immunization guidelines, as recommended by the Advisory Committee on Immunization Practices (ACIP) of the federal Centers for Disease Control and Prevention (CDC), the American Academy of Pediatrics, and the American Academy of Family Physicians, regarding full human papillomavirus (HPV) immunization before admission or advancement to the eighth grade level of any private elementary or secondary school;

2. A statement, as determined by the California Department of Education, summarizing the recommended ages for the HPV vaccine and scientific rationale for vaccination at those ages, based on guidance issued by ACIP of the CDC, the American Academy of Pediatrics, and the American Academy of Family Physicians; and

3. The following statement: "HPV vaccination can prevent over 90 percent of cancers caused by HPV. HPV vaccines are very safe, and scientific research shows that the benefits of HPV vaccination far outweigh the potential risks."

The above requirements do not apply to a pupil in a home-based private school.

(As relevant to private K-12 schools, AB 659 adds Section 120336 to the Health and Safety Code.)

STUDENT HEALTH & SAFETY

AB 1283 – Authorizes Private Schools To Stock And Administer To Pupils Emergency Stock Albuterol Inhalers.

Effective January 1, 2024, Assembly Bill 1283 (AB 1283) permits private elementary and secondary schools to voluntarily determine whether or not to make emergency stock albuterol inhalers and trained personnel available at their schools. When making this determination, AB 1283 directs private elementary and secondary schools to evaluate the emergency medical response time to the school and determine whether initiating emergency medical services is an acceptable alternative to stocking albuterol inhalers and having trained personnel. AB 1283 encourages and recommends that private elementary and secondary schools have a minimum of two trained personnel.

A "stock albuterol inhaler" means albuterol medication in the form of a metered-dose inhaler (MDI) that is ordered by a health care provider, is not prescribed for a specific person, and includes, if necessary, a single-use disposable holding chamber. "Trained personnel" means an employee who has volunteered to administer stock albuterol inhalers to a person if the person is suffering, or reasonably believed to be suffering, from respiratory distress, who the school has designated to provide those services, and who has received training that meets the minimum standards established by the State Superintendent of Public Instruction. Those minimum standards will be posted on the website for the California Department of Education, and will include all of the following:

1. Techniques for recognizing symptoms of respiratory distress;

2. Standards and procedures for the storage,

restocking, and emergency use of stock albuterol inhalers;

3. Emergency follow-up procedures, including calling the emergency 911 telephone number and contacting, if possible, the pupil's parent or guardian and physician;

4. Recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation; and

5. Written materials covering certain required information, which the school must retain for reference.

Each private elementary and secondary school may select one or more employees who have volunteered to administer stock albuterol inhalers to receive the initial and annual refresher training from the school nurse (if any) or other qualified person designated by an authorizing physician and surgeon (e.g., a medical director of the local health department or a local emergency medical services director). Employees must receive training during their regular working hours and at no cost to them.

AB 1283 authorizes a school nurse or, if the school does not have a school nurse or the school nurse is not onsite or available, trained personnel to administer a stock albuterol inhaler to a person exhibiting potentially life-threatening symptoms of respiratory distress at school or a school activity when a physician is not immediately available. Trained personnel must initiate emergency medical services or other appropriate medical follow-up care consistent with the training materials referenced above.

If a stock albuterol inhaler is used, it must be replaced as soon as reasonably possible, but no later than two weeks after it is used. Stock albuterol inhalers must be replaced before their expiration date.

(AB 1283 adds Section 49414.7 to the Education Code.)

STUDENT WORK PERMITS

AB 800 – Requires Schools To Give Notice Of Basic Labor Rights When Signing Student Work Permits.

Beginning August 1, 2024, Assembly Bill 800 (AB 800) requires a private school signing a minor student's Statement of Intent to Employ a Minor and Request for a Work Permit-Certificate of Age to provide the student, either before or at the time of signing, a document clearly explaining basic labor rights extended to workers. The topics covered by the labor rights document, must include, without limitation:

- Prohibitions against misclassification of employees as independent contractors.
- Child labor.
- Wage and hour protections.
- Worker safety.
- Workers' compensation.
- Unemployment insurance.
- Paid Sick Leave, Paid Family Leave, State Disability Insurance, and the California Family Rights Act.
- The right to organize a union in the workplace.
- Prohibitions against retaliation by employers when workers exercise these or any other rights guaranteed by law.

AB 800 encourages the University of California Berkeley Center for Labor Research and Education to produce, with input from bona fide labor organizations, a draft template for the document to be provided to minors, including translations into other languages, such as Spanish, Chinese, Tagalog, Vietnamese, and Korean.

The document must set forth the above labor rights in plain, natural terminology easily understood by the student. The document must be in English and include a website address and a QR code that links to an internet website with electronic versions of the document, and any translated versions of the document, produced by the University of California Berkeley Center for Labor Research and Education.

(AB 800 adds Section 49110.5 to the Education Code.)

STUDENT MEALS

SB 348 – Superintendent Of Public Instruction To Adopt Standards For Participating Schools In School Breakfast And National School Lunch Programs.

The California Department of Education administers the School Breakfast Program and the National School Lunch Program, which are federally funded programs that assist schools, including private nonprofit schools, to provide nutritious breakfasts and lunches to students at reasonable prices.

Effective January 1, 2024, Senate Bill 348 (SB 348) requires that any private nonprofit school receiving reimbursement through the School Breakfast Program and/or the National School Lunch Program meet the following applicable standards adopted by the Superintendent of Public Instruction:

1. The definition of a "nutritionally adequate breakfast."

2. The definition of a "nutritionally adequate lunch."

3. Standards for determining the eligibility of children to receive free or reduced-price meals.

4. Standards for the protection of the identity of children for whom reimbursement is made pursuant to this article.

(As relevant to private K-12 schools, SB 348 amends Section 49492 of the Education Code.)

Note:
Schools that accept state funds may be required to comply with certain state and/or federal laws with which they otherwise would not be required to comply.

SEXUAL ABUSE & VIOLENCE RESOURCES

AB 1071 – Requires The CA Dept. Of Education To Make Teen Dating Violence Prevention Information And Resources Available On Its Website.

Assembly Bill 1071 (AB 1071) requires the California Department of Education to make all of the following resources available on the Department's website:

1. Resources on abuse, including sexual, emotional, and physical abuse, and teen dating violence prevention for professional learning purposes;

2. Information about local and national hotlines and services for youth experiencing teen dating violence; and

3. Other relevant materials for parents, guardians, and other caretakers of pupils.

(AB 1071 adds Section 231.7 to the Education Code.)

HIGHER EDUCATION

STUDENT ATHLETES

SB 661 – Amends The Student Athlete Bill Of Rights.

The Student Athlete Bill of Rights, which took effect for the 2013-2014 academic year, provides certain benefits to student athletes at four-year private universities located in California, that maintain intercollegiate athletic programs. These benefits include certain protections for athletic scholarships. Under existing law, private universities that receive as an average, less than $10,000,000 in annual income derived from media rights for intercollegiate athletics are exempt from the requirements to grant these benefits. Existing law requires private universities that are required to grant these benefits to student athletes to rely exclusively on revenue derived from media rights for intercollegiate athletics to defray any costs incurred from granting these benefits to student athletes.

Effective January 1, 2024, Senate Bill 661 (SB 661) expands the law to grant these benefits to student athletes who attend four-year private universities that receive, as an average, less than $10,000,000 in annual income derived from media rights for intercollegiate athletics, provided that the student athlete participates in an intercollegiate athletic program whose team does not compete in Division III of the National Collegiate Athletic Association (NCAA).

SB 661 also removes the requirement that private universities rely exclusively on revenue derived from media rights for intercollegiate athletics to defray any costs incurred from affording these benefits to student athletes.

(SB 661 amends Section 67452 of the Education Code.)

HOUSING

SB 4 – Enacts Affordable Housing On Faith And Higher Education Lands Act Of 2023.

Senate Bill 4 (SB 4) allows applications for certain housing development projects that meet certain criteria to be streamlined for approval and not subject to a conditional use permit. The applications must meet certain criteria including specified applicants, location of the land, and type of project. The application for the housing development projects must be submitted by a qualified developer, which is defined as local public entities, as defined in Health and Safety Code Section 50079 or certain nonprofit corporations, limited partnerships, limited liability companies, religious institutions or independent institution of education, as defined in Education Code Section 66010, that meet certain criteria.

SB 4 outlines fifteen separate criteria that the housing development project must meet. The housing development project must be located on any land owned by an independent institution of higher education or religious institution on or before January 1, 2024. The housing development project cannot be adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use. One hundred percent of the units, exclusive of manager units, in an eligible housing development project must be affordable to lower income households, except that 20% of the units may be for moderate-income households, and 5% of the units may be for staff of the independent institution of higher education or the religious institution that owns the land. The units affordable to lower income households must be offered at affordable rent, as set

in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee, or affordable housing cost, as defined the Health and Safety Code.

If all criteria are met, the housing development project will be eligible for a use by right, meaning it will not require a conditional use permit, planned unit development permit, or other discretionary local government review, and will not be a "project" that is subject to California Environmental Quality Act (CEQA) (Use By Right).

SB 4 authorizes housing development projects to utilize the ground floor for certain ancillary uses including, but not limited to, childcare centers and facilities operated by community-based organizations.

SB 4 specifies that a housing development project that is eligible for approval as a Use by Right under the bill is also eligible for a density bonus, incentives, or concessions, or waivers or reductions of development and parking standards, except as specified.

SB 4 requires a housing development project to provide off-street parking of up to one space per unit, unless a state law or local ordinance provides for a lower standard of parking, in which case the law or ordinance applies. Local governments are prohibited from imposing any parking requirement on a housing development project if the development is located within one-half mile walking distance of public transit, either a high-quality transit corridor or a major transit stop, or within one block of a car share vehicle.

SB 4 requires a local government that determines a proposed housing development project is in conflict with any objective planning standards, as specified, to provide the qualified developer with written documentation explaining those conflicts within 60 days for a proposed housing development project containing 150 or fewer housing units or 90 days for a proposed housing development project containing more than 150 housing units. If the local government fails to provide the requisite documentation explaining any conflicts, the proposed housing development project shall be deemed to satisfy the required objective planning standards.

SB 4 authorizes local governments to conduct a design review; however, the design review must focus on compliance with the requisite criteria of a streamlined, ministerial review process. The design review process shall not inhibit, chill, or preclude a streamlined, ministerial approval. SB 4 requires local governments to issue a subsequent permit for housing development projects approved under the provisions of this act.

SB 4 will be repealed as of January 1, 2036.

SB 4 includes findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities. CEQA requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA does not apply to the ministerial approval of projects. SB 4, by requiring approval of certain development projects as a Use By Right, would expand the exemption for ministerial approval of projects under CEQA.

(SB 4 adds and repeals Section 65913.16 of the Government Code.)

EARLY CHILDHOOD EDUCATION, PRESCHOOLS, & CHILD CARE

SB 722 – Requires The Department Of Social Services To Create A Template Plan Of Operations And Incidental Medical Services Plan For Child Daycare Facilities.

Under existing law, the California Child Day Care Facilities Act, administered by the State Department of Social Services (Department), provides for the licensure and regulation of child daycare facilities. Existing regulations impose various requirements on child daycare facilities, including, that they have a plan of operation that contains certain information, and under specified circumstances, an incidental medical services plan.

Senate Bill 722 (SB 722) requires the Department, on or before January 1, 2025, to do all of the following:

1. Create a template form for plans of operations;
2. Create a template form for incidental medical services plans;
3. After completion of these templates, revise its regulations, notices, practices, and bulletins to eliminate any requirement that an incidental medical services plan or amended plan of operation be approved before a child with exceptional needs, as defined, is allowed to attend a child daycare or child development program; and
4. Permit a licensed child daycare facility that submits to the Department a completed incidental medical services plan using the Department's template to enroll a child prior to the Department's approval of the incidental medical services plan.

(SB 722 adds Section 1596.802 to the Health and Safety Code.)

BUSINESS AND FACILITIES

SCHOOL FACILITIES

SB 760 – Amends The Circumstances Under Which A School Restroom May Be Closed Temporarily.

All private schools offering any combination of classes for kindergarteners through 12th graders are required to maintain restrooms that are maintained and cleaned regularly, fully operational, and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers. Schools must keep the restrooms open during school hours when pupils are not in classes and keep a sufficient number of restrooms open during school hours when pupils are in classes. Existing law allows schools to temporarily close a restroom as necessary for pupil safety or as necessary to repair the facility.

Senate Bill 760 (SB 760) amends the circumstances under which a school is authorized to temporarily close a restroom. A school may now temporarily close a restroom: (1) for a documented pupil safety concern, (2) for an immediate threat to pupil safety, or (3) to repair the facility.

(SB 760 amends Section 35292.5 of the Education Code and adds Section 17585 to the Education Code.)

AB 70 – Requires Emergency Response Trauma Kits In Buildings Constructed Before 2023 If Modified.

Health and Safety Code Section 19310 requires the person or entity, responsible for managing certain buildings constructed on or after January 1, 2023 and classified as assembly buildings, business buildings, educational buildings and residential buildings, as defined in the California Building Code, to comply with certain requirements related to compliant kits. These compliance requirements related to trauma kits include acquiring and placing at least six trauma kits on the premises, as specified, inspecting the trauma kits, restocking the trauma kits and providing the tenants of the building or structure information for training in the use of the trauma kits.

Assembly Bill 70 (AB 70) extends the trauma kit requirements to structures that are constructed prior to January 1, 2023, and subject to subsequent modifications, renovations, or tenant improvements. A structure is considered to be modified, renovated, or tenant improved if the structure is subject to any of the following on or after January 1, 2024: one hundred thousand dollars ($100,000) of tenant improvements in one calendar year; one hundred thousand dollars ($100,000) of building renovations in one calendar year; or any tenant improvement for places of assembly, including auditoriums and performing arts theaters.

(AB 70 amends Section 19310 of the Health and Safety Code.)

SB 2 – Modifies California Law Governing Firearms.

Through Senate Bill 2 (SB 2), the Legislature makes a number of declarations related to firearms and public safety, including that widespread carrying of firearms impedes the exercise of other fundamental rights, and "[w]hen firearms are present in public spaces, it makes those places less safe, which discourages people from attending protests, going to school, peacefully worshiping, voting in person, and enjoying other activities."

As relevant to private schools, SB 2 adds Section 26230 to the Penal Code, which prohibits persons who are granted a license to carry a concealed firearm on their person consistent with California law from carrying such firearm on or into a number of locations, including any of the following:

- A "school zone," meaning an area in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, or within a distance of 1,000 feet from the grounds of the public or private school.
- A building, real property, or parking area under the control of a preschool or childcare facility, including a room or portion of a building under the control of a preschool or childcare facility.
- Any area under the control of a public or private community college, college, or university, including, but not limited to, buildings, classrooms, laboratories, medical clinics, hospitals, artistic venues, athletic fields or venues, entertainment venues, officially recognized university-related organization properties, whether owned or leased, and any real property, including parking areas, sidewalks, and common areas.
- A church, synagogue, mosque, or other place of worship, including in any parking area immediately adjacent thereto, unless the operator of the place of worship clearly and conspicuously posts a sign at the entrance of the building or on the premises indicating that license-holders are permitted to carry firearms on the property. Any such signs must be of a uniform design as prescribed by the Department of Justice and shall be at least four inches by six inches in size.

Under California's Gun-Free School Zone Act of 1995, however, shooting sports or activities, including, but not limited to, trap shooting, skeet shooting, sporting clays, and pistol shooting, that are sanctioned by a school, college, university, or other governing body of the institution, that occur on the grounds of a private school or university or college campus continue to be permitted. Also, duly authorized security guards who

carry loaded firearms consistent with all applicable California legal requirements also continue to be permitted.

(SB 2 adds Section 26230 to the Penal Code.)

CORPORATE GOVERNANCE

SB 446 – Authorizes The Superior Court To Ratify Certain Lawful Corporate Actions Made By Nonprofit Corporations.

Last year, the Legislature enacted SB 218 establishing a process by which a California for-profit corporation could remedy corporate actions that did not comply with technical legal requirements when originally undertaken. SB 218 did not provide the same ratification mechanisms to nonprofit corporations.

Senate Bill 446 (SB 446) extends the same ratification procedures and mechanisms established in SB 218 to nonprofit corporations organized under California law. SB 446 authorizes the superior court to validate or ratify otherwise lawful corporate actions not in compliance, or purportedly not in compliance, with the General Corporation Law, the articles, bylaws, or a plan or agreement to which the corporation is a party in effect at the time of a corporate action, if the requirements outlined in SB 446 are met.

If the corporate action is not related to the election of the initial directors, the Board must ratify the corporate action by resolutions that set forth:

1. Each action to be ratified;
2. The date the action took place and the date the action is effective, if different;
3. The nature of the noncompliance or purposed noncompliance of each action; and
4. A statement that the ratification of each action is approved.

If the corporate action is related to the election of the initial directors, the resolution must set forth:

1. The name of the person or persons who first took action in the name of corporation as the initial directors;
2. The earlier date of which such person took action or were purported to have been elected as initial directors and the date the persons shall be deemed to become the initial directors; and
3. A statement that the ratification of each election is approved.

The corporation must file a certificate of ratification with the Secretary of State if the ratified corporate action would have required filing or any document previously filed becomes inaccurate or incomplete after giving effect to the ratification. The Corporations Code sets forth the required provisions that must be included in the certificate of ratification.

If the Secretary of State refuses to file the certificate of ratification because it would render prior filings inaccurate, ambiguous, or unintelligible, an authorized person may file a petition with the superior court to determine the validity of the corporate action. An "authorized person" is defined as the corporation, any successor entity to the corporation, any director, or any member or any other person that claims to be substantially and adversely affected by the ratification of a corporate action.

The petition must be filed in the superior court in the county where the principal office of the corporation is located or where the corporation's agent for service of process is located, if the principal office is out of state. The authorized person must serve the petition on the corporation's registered agent and does not need to join any other party. The court may require the authorized person to provide notice of the action to other persons and permit those other persons to intervene in the action. The Corporations Code sets forth the required provisions that must be included in the petition.

The corporation must file a certificate of validation with the Secretary of State if the corporate action validated by the superior court would have required filing or any document previously filed becomes inaccurate or incomplete after giving effect to the validation. The Corporations Code sets forth the required provisions that must be included in the certificate of validation.

(SB 446 amends Sections 5008 and 12214 of, and adds Sections 5017 and 12220.5 to, the Corporations Code.)

AB 231 – Extends The Timeframe During Which Nonprofit Corporations With Members May Hold Membership Meetings Solely Remotely, Without Obtaining All Members' Consents.

In addition to a board of directors, some nonprofit corporations have "members," that have certain voting rights, like the right to elect directors. Nonprofits with voting members must hold membership meetings. Existing law provides that, subject to certain conditions, members not physically present at a member meeting may participate in the meeting, be deemed present, and vote at a meeting using remote communication technologies, like electronic video screen communications or conference telephone call lines. However, existing law prohibits conducting a meeting of members *solely* by electronic transmission, electronic video screen communication, conference telephone, or other remote communications unless all of the members consent, the board of directors determines it is necessary or appropriate because of an

emergency (as defined in the Corporations Code) or if the meeting was conducted on or before June 30, 2022.

Assembly Bill 231 (AB 231) extended this timeframe. Now, nonprofit corporations with voting members are authorized to conduct membership meetings *solely* by means of remote communication if: (1) all the members consent; (2) the board of directors determines it is necessary or appropriate because of an emergency as defined in the Corporations Code; or (3) notwithstanding an absence of member consents, the meeting is conducted on or before December 31, 2025 and it includes a live audiovisual feed and an audio-only means of participation. In the case of this third option, members must have the right to choose whether to participate via audiovisual or audio-only means, without the corporation imposing any barriers on either mode of participation. AB 231 further provides that a *de minimis* disruption of an audio or audiovisual feed does not require a corporation to end a member meeting, or render the corporation out of compliance with, the provisions of the Corporations Code on remote member meetings. Finally, AB 231 requires that at a remote meeting, members should be able to read or hear the proceedings of the meeting concurrently with those proceedings.

(AB 231 amends Sections 600, 5510, 7510, 9411, and 12460 of the Corporations Code.)

GRANTS

AB 1185 – Expands The California State Nonprofit Security Grant Program.

In 2019, Legislature enacted AB 1548 establishing the Nonprofit Security Grant Program. AB 1548 authorized the Nonprofit Security Grant Program to provide grants to nonprofit organizations that are at a high risk for violent attacks and hate crimes due to ideology, beliefs, or mission to improve their physical security. The nonprofit organizations can use the grant funds for security guards, reinforced doors and gates, high-intensity lighting and alarms, and any other security enhancement consistent with the purpose of the California State Nonprofit Security Grant Program. In 2022, Legislature enacted AB 1548 expanding the program by adding an additional approved use of the grant funds and increasing the award limit to $500,000 per recipient.

Assembly Bill 1185 (AB 1185) further expands the program authorizing the grant program to provide grants to an applicant that provides support to the above-described at-risk nonprofit organizations for vulnerability assessments, security trainings, mass notification alert systems, monitoring and response systems, and lifesaving emergency equipment.

The Office of Emergency Services is required to provide ongoing technical assistance for nonprofit organizations that require a vulnerability assessment for a state application to the California State Nonprofit Security Grant Program or a threat assessment for a federal application to the Nonprofit Security Grant Program of the United States Department of Homeland Security. AB 1185 requires that the technical assistance from Office of Emergency Services include a resource page with a toll-free telephone number on the Office of Emergency Services' website and continuous outreach to stakeholders on available resources for vulnerability assessments outside the established grant cycle.

(AB 1185 amends Section 8588.9 of the Government Code.)

NOTE:

Schools that accept state funds may be required to comply with certain state and/or federal laws with which they otherwise would not be required to comply.

AB 590 – Extends Advance Payment Practices For State Grants And Contracts With Nonprofit Entities.

Through Assembly Bill 590 (AB 590), the Legislature intends to improve and expand California's existing advance payment practices for state grants and contracts with nonprofit entities. AB 590 authorizes a state agency that administers a state grant program or contract to advance payments under that program or contract, provided certain requirements are met. For example, the private, nonprofit organization must qualify as tax-exempt under Section 501(c)(3) of the Internal Revenue Code. As another example, AB 590 requires the administering state agency to prioritize organizations and projects serving disadvantaged, low-income, and under-resourced communities. The state agency must also include a stipulation about the advance payment structure and a request process within the grant agreement or contract, and ensure an advance payment to an organization does not exceed 25% of the total grant or contract amount, unless certain additional requirements and justifications are met.

To receive the advance payments, the organization receiving the grant or contract must also satisfy certain minimum requirements, including but not limited to providing an itemized budget, documentation to support the need for advance payment, progress reports, and documentation of good standing under Section 501(c)(3). There are also requirements relating to obtaining the requisite insurance as required by the administering agency, and holding the funds as stipulated or otherwise required by law.

Under AB 590, the Department of Finance or its designee may also audit organizations that receive advanced payments.

(AB 590 adds Section 11019.3 to the Government Code.)

HEALTH & SAFETY

AB 1467 – Enacts The Nevaeh Youth Sports Safety Act.

The Health and Safety Code defines a youth sports organization as an organization, business, nonprofit entity, or a local governmental agency that sponsors or conducts amateur sports competitions, training, camps, or clubs in which persons 17 years of age or younger participate. Existing law requires youth sports organizations to comply with specified concussion and sudden cardiac arrest prevention protocols. These protocols include, but are not limited to, offering annual education or related materials to each youth sports organization coach, administrator, and referee, umpire, or other game official. These materials must include information relating to the use of an automated external defibrillator (AED), if it is available, in the event of a cardiac emergency.

The California Youth Football Act currently requires youth sports organizations that conduct tackle football programs to comply with certain protocols. These protocols include requiring coaches to annually receive first aid, cardiopulmonary resuscitation, and AED certification, and requiring at least one independent non-rostered individual to be present at all practice locations that has current and active certifications in first aid, cardiopulmonary resuscitation, automated external defibrillator (AED), and concussion protocols.

Assembly Bill 1467 (AB 1467) enacts the Nevaeh Youth Sports Safety Act. Beginning on January 1, 2027, each youth sports organization that offers an athletic program will be required to make an AED available to the athletes during any official practice or match. An official practice is defined as any sport session in which live action or one or more drills are conducted and a match is defined as a match as scheduled by the youth sports organization, the coach, or other designee of the organization. AB 1467 requires that if an AED is administered during an applicable medical circumstance, it must be administered by a medical professional, coach, or other person designated by the youth sports organization, who holds AED certification and who complies with any other qualifications required pursuant to federal and state law applicable to the use of an AED.

While not stated explicitly, the Nevaeh Youth Sports Safety Act essentially requires youth sports organizations to have an individual present at all practices and matches that has a current and active AED certification and any other qualifications required by federal and state law to administer an AED in the event it is required.

(AB 1467 adds Article 2.6 (commencing with Section 124238) to Chapter 4 of Part 2 of Division 106 of the Health and Safety Code.)

FUNDRAISING

SB 650 – Authorizes Only Major League Nonprofits To Conduct 50/50 Raffles Permanently.

A 50/50 Raffle is a raffle in which 50% of the gross receipts generated from the sale of raffle tickets are used to benefit or provide support for an organization and the other 50% is paid to the winner that is selected by a manual draw (50/50 Raffle). In California, 50/50 Raffles may only be conducted by private, nonprofit organization established by, or affiliated with, a team from Major League Baseball, the National Hockey League, the National Basketball Association, the National Football League, the Women's National Basketball Association, Major League Soccer, or a private, nonprofit organization established by the Professional Golfers' Association of America, Ladies Professional Golf Association, or National Association for Stock Car Auto Racing that have met certain requirements (Major League Nonprofit).

The only organizations that may receive the funds from a 50/50 Raffle are Major League Nonprofits that are private, nonprofit organizations, have been qualified to conduct business in California for at least one year prior to the raffle, and are exempt from taxation pursuant to applicable California law. The Penal Code section authorizing 50/50 Raffles was set to expire on January 1, 2024.

Senate Bill 650 (SB 650) permanently authorizes Major League Nonprofits to conduct 50/50 Raffles. SB 650 does not extend authority to any other nonprofit organizations to conduct 50/50 Raffles.

(SB 650 amends Section 320.6 of the Penal Code.)

MEDICAL INFORMATION

AB 1697 – Permits The Release Of Medical Information To Be Authorized Electronically.

The Uniform Electronic Transactions Act provides that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form. However, the Uniform Electronic Transactions Act is not applicable to an authorization for the release of medical information by a provider of health care, health care service plan, pharmaceutical company, or contractor or an authorization for the release of genetic test results by a health care service plan under the Confidentiality of Medical Information Act (CMIA).

Assembly Bill 1697 (AB 1697) amends the Uniform Electronic Transactions Act to make it applicable to authorizations for the release of medical information by a provider of health care, health care service plan, pharmaceutical company, or contractor and to authorizations for the release of genetic test results by a health care service plan under the CMIA.

The CMIA requires that the authorization for release of medical information by providers and employers meet certain requirements, including a specific end date, to be valid. AB 1697 amends the CMIA so that in lieu of a specific end date, the authorization can state an expiration date or event limiting the duration of the authorization to one year or less. In certain instances, as specified, the authorization may extend beyond a year.

AB 1697 requires providers and employers to provide the individual with a copy of the signed authorization, and instructions on how to access additional copies or a digital version of the signed authorization for that authorization to be valid.

AB 1697 also incorporates the changes made by Assembly Bill 254, which expands the definition of "medical information" to include information about a consumer's reproductive health, menstrual cycle, fertility, pregnancy, pregnancy outcome, plans to conceive, or type of sexual activity collected by a reproductive or sexual health digital service, including a mobile-based application or internet website.

(AB 1697 amends Sections 56.05, 56.11, 56.17, 56.21, and 1633.3 of the Civil Code.)

NON-PUBLIC SCHOOLS

Please note that a "nonpublic, nonsectarian school," means a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individualized education program and is certified by the California Department of Education. It does not include all private and independent schools.

AB 611 – Establishes New Notification Requirements For Change In Certification Status Of Non-Public Schools.

Existing law permits, under certain circumstances, master contracts to be entered into between local educational agencies or charter schools and nonpublic, nonsectarian schools that have been certified by the Superintendent of Public Instruction for the provision of services to pupils with exceptional needs. A "nonpublic, nonsectarian school," means a private, nonsectarian school that enrolls students with exceptional needs pursuant to an individualized education program and is certified by the California Department of Education. Existing law authorizes the Superintendent to revoke or suspend the certification of a nonpublic, nonsectarian school for specified reasons. In the event the Superintendent suspends or revokes a certification of a nonpublic, nonsectarian school, the Superintendent must notify the local educational agency or charter school that the nonpublic, nonsectarian school had contracted with of the suspension or revocation.

Assembly Bill 611 (AB 611) requires a contracting local educational agency or charter school to, within 14 days of becoming aware of any change to the certification status of a nonpublic, nonsectarian school, to notify the parents of any pupils of the local educational agency or charter school who attend the nonpublic, nonsectarian school or agency of the change in certification status. Notifications must be provided through email or regular mail and must include a copy of certain procedural safeguards, which are set forth in Education Code Section 56500. AB 611 also requires that the local educational agency or charter school maintain a record of the notices given and make the notices available for inspection upon request of the State Department of Education.

(AB 611 adds Section 56366.45 to the Education Code.)

AB 723 – Designates Non-Public Schools As The "School Of Origin" For Any Placed Foster Children.

Existing law requires a local educational agency serving a foster child to allow the foster child to remain at the child's school of origin upon the initial detention or placement, any subsequent change in placement, the termination of the court's jurisdiction, or pending resolution of a dispute regarding school of origin placement. Existing law defines "school of origin" as the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled, except as specified. Existing law permits, under certain circumstances, master contracts to be entered into between local educational agencies and nonpublic, nonsectarian schools that have been certified by the Superintendent of Public Instruction for the provision of services to pupils with exceptional needs. A "nonpublic, nonsectarian school," means a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individualized education program and is certified by the California Department of Education.

For a foster child who is an individual with exceptional needs, Assembly Bill 723 (AB 723) defines "school of origin" as also including a placement in a certified nonpublic, nonsectarian school. AB 723 also requires, commencing with the 2024–25 school year, that a nonpublic, nonsectarian school seeking certification or already certified to agree in writing that for any foster child it serves it will be designated as the school of origin of the foster child and will allow the foster child to continue their education in the school.

(AB 723 amends Sections 48853.5, 56366.1, and 56366.10 of the Education Code.)

Don't Miss Our Upcoming Webinar!

2024 Private Education Legislative Roundup

Thursday, November 16
10:00 a.m. - 11:00 a.m.

Many new laws affecting California private schools are set to take effect January 1, 2024. The LCW Legislative Roundup webinar will explain what private schools need to know about these new laws and how they may affect your school. Attendees will leave this webinar with insights on the impacts of the new laws, an understanding of new legal obligations, and helpful strategies to comply with the new laws.

Register here.