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LEGAL UPDATE

November 2, 2017

To: Superintendents, Member School Districts (K-12)
From: Ellie R. Austin *ERA*
Schools Legal Counsel
Subject: Important Legislative Updates Impacting Local Educational Agencies
Memo No. 38-2017

This Legal Update will address recent legislative actions impacting local educational agencies (“LEAs”).

I. AB 670: Part time playground positions

Assembly Bill (“AB”) 670, which takes effect on January 1, 2018, includes part-time playground positions as part of the classified service. Beginning January 1, 2018, all part-time playground employees are required to be covered under collective bargaining.

Currently, part-time playground positions are exempt from the classified service if the individuals serving in these positions do not serve in another position that is in the classified service in that district. AB 670 removes that exemption. From January 1, 2018, these positions will be considered part of the classified service.

In order to address AB 670’s mandate and approaching deadline, we recommend that districts contact the local classified exclusive representative and determine what impact(s) AB 670 will have on existing employees based on the applicable collective bargaining agreement. Districts should also consider whether the impacts of AB 670 can be addressed via a memorandum of understanding, or whether they will require a change to the collective bargaining agreement.

II. SB 751: Reserve cap

Senate Bill (“SB”) 751 makes changes to the existing school district reserve cap law in a number of ways. SB 751 ensures that if the reserve cap requirement is triggered, all school districts will either be exempted or will have significantly



more flexibility than under the 2014 reserve cap requirement.

Specifically, SB 751:

- Exempts schools districts of less than 2,501 average daily attendance;
- Exempts all basic aid districts;
- Raises the reserve cap limit to 10% of the district's general fund; and
- Clarifies that the higher cap applies to general fund (01) and special reserve fund (17) ending fund balances, not to funds for capital outlay, self-insurance, building, deferred maintenance, or post-employment benefits.

The new law takes effect on January 1, 2018.

III. AB 450: Immigration worksite enforcement actions

AB 450 adds a number of workplace protections for undocumented immigrants from federal immigration enforcement actions. The new law applies to public employers, including school districts and county offices of education. AB 450 adds sections 7285.1, 7285.2, and 7285.3 to the Government Code, and sections 90.2 and 1019.2 to the Labor Code.

New Government Code section 7285.1 prohibits an employer or anyone acting on behalf of the employer from providing voluntary consent to an immigration enforcement agent to enter nonpublic areas of a place of labor unless the agent presents a judicial warrant.

New Government Code section 7285.2 prohibits an employer or anyone acting on behalf of the employer from providing voluntary consent to an immigration enforcement agent to access, review, or obtain employee records without a subpoena or judicial warrant. The new law does not apply to I-9 Employment Eligibility Verification forms.

Likewise, under the new law employers may not re-verify the employment eligibility of a current employee except as permitted under federal law.¹

Employers are also required to provide notice to employees of any inspections of employment records by an immigration agency, within 72 hours of receiving notice of the inspection. On or before July 1, 2018, the Labor Commissioner will develop a template posting employers may use for these purposes.

IV. SB 731: Public school employees: former or current members of the Armed Forces or National Guard

SB 731 expands the requirements for leave for illness or injury treatment connected with a military service-connected disability for public employees. For both certificated and classified employees, SB 731 expands coverage to include former active duty members of the U.S. Armed Forces, and former and current members of the California National Guard or a federal reserve

¹ Specifically, as permitted under 8 U.S.C. § 1324a(b).



component. SB 731 amends Sections 44978.2 and 45191.5 of the Education Code with respect to military service-connected disability leave.

V. AB 500: Employee code of conduct

AB 500 adds section 44050 to the Education Code. New Education Code section 44050 requires a school district, county office of education, or charter school that offers or conducts private school instruction at the elementary or high school level, and that maintains a section on employee interactions with pupils in its employee code of conduct, to:

- (1) Beginning January 1, 2018 – Post the section on employee interactions with pupils contained in its employee code of conduct on each school web site so that it is accessible to the public without a password.
- (2) Beginning July 1, 2018 – Provide a written copy of the section on employee interactions with pupils contained in its employee code of conduct to the parent or guardian of each pupil at the beginning of each school year.

Districts should also review applicable policies and procedures to determine whether it maintains an employee code of conduct that would be subject to AB 500.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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