



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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LEGAL UPDATE

January 7, 2015

To: Superintendents, Member School Districts (K-12)
From: Patrick C. Wilson
Senior Associate General Counsel *pcw*
Subject: Alcoholic Beverages at Educational Facilities
Business and Professions Code § 25608
Memo No. 01-2015

Alcohol is not allowed on school grounds except in limited circumstances.

Effective January 1, 2015, Business and Professions Code § 25608(a)(17) allows alcoholic beverages at educational facilities as follows:

“When the *alcoholic beverages* are acquired, possessed, used, or consumed pursuant to a license or permit obtained under this division *for special events* held at facilities owned and operated by an educational agency, a county office of education, superintendent of schools, school district, or community college district *at a time when pupils are not on the grounds*. As used in this paragraph, “facilities” includes, but are not limited to, office complexes, conference centers, or retreat facilities.”

This new provision will provide school districts and community college districts added flexibility when renting or using facilities they own and operate for social events. Note: an ABC permit would still likely be required for the special event.

Other exceptions to the alcohol prohibition are set forth in the attached list.

Also attached is a proposed policy that institutes “best practices” if alcohol is served pursuant to any of these exceptions.

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



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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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Business and Professions Code § 25608. Public schoolhouses or grounds; penalties; exceptions; bar from privilege of using public school property

(a) Every person who possesses, consumes, sells, gives, or delivers to any other person, any alcoholic beverage in or on any public schoolhouse or any of the grounds of the schoolhouse, is guilty of a misdemeanor. This section does not, however, make it unlawful for any person to acquire, possess, or use any alcoholic beverage in or on any public schoolhouse, or on any grounds of the schoolhouse, if any of the following applies:

(1) The alcoholic beverage possessed, consumed, or sold, pursuant to a license obtained under this division, is wine that is produced by a bonded winery owned or operated as part of an instructional program in viticulture and enology.

(2) The alcoholic beverage is acquired, possessed, or used in connection with a course of instruction given at the school and the person has been authorized to acquire, possess, or use it by the governing body or other administrative head of the school.

(3) The public schoolhouse is surplus school property and the grounds of the schoolhouse are leased to a lessee that is a general law city with a population of less than 50,000, or the public schoolhouse is surplus school property and the grounds of the schoolhouse are located in an unincorporated area and are leased to a lessee that is a civic organization, and the property is to be used for community center purposes and no public school education is to be conducted on the property by either the lessor or the lessee and the property is not being used by persons under the age of 21 years for recreational purposes at any time during which alcoholic beverages are being sold or consumed on the premises.

(4) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated veterans stadium with a capacity of over 12,000 people, located in a county with a population of over 6,000,000 people. As used in this paragraph, "events" mean football games sponsored by a college, other than a public community college, or other events sponsored by noncollege groups.

(5) The alcoholic beverages are acquired, possessed, or used during an event not sponsored by any college at a performing arts facility built on property owned by a community college district and leased to a nonprofit organization that is a public benefit corporation formed under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. As used in this paragraph, "performing arts facility" means an auditorium with more than 300 permanent seats.

(6) The alcoholic beverage is wine for sacramental or other religious purposes and is used only during authorized religious services held on or before January 1, 1995.

(7) The alcoholic beverages are acquired, possessed, or used during an event at a community center owned by a community services district or a city and the event is not held at a time when students are attending a public school-sponsored activity at the center.

(8) The alcoholic beverage is wine that is acquired, possessed, or used during an event sponsored by a community college district or an organization operated for the benefit of the community college district where the college district maintains both an instructional program in viticulture on no less than five acres of land owned by the district and an instructional program in enology, which includes sales and marketing.

(9) The alcoholic beverage is acquired, possessed, or used at a professional minor league baseball game conducted at the stadium of a community college located in a county with a population of less than 250,000 inhabitants, and the baseball game is conducted pursuant to a contract between the community college district and a professional sports organization.

(10) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated stadium or other facility. As used in this paragraph, "events" means fundraisers held to benefit a nonprofit corporation that has obtained a license pursuant to this division for the event. "Events" does not include football games or other athletic contests sponsored by any college or public community college. This paragraph shall not apply to any public education facility in which any grade from kindergarten to grade 12, inclusive, is schooled.

(11) The alcoholic beverages are possessed, consumed, or sold, pursuant to a license, permit, or authorization obtained under this division, for an event held at an overnight retreat facility owned and operated by a county office of education or a school district at times when pupils are not on the grounds.

(12) The grounds of the public schoolhouse on which the alcoholic beverage is acquired, possessed, used, or consumed is property that has been developed and is used for residential facilities or housing that is offered for rent, lease, or sale exclusively to faculty or staff of a public school or community college.

(13) The grounds of a public schoolhouse on which the alcoholic beverage is acquired, possessed, used, or consumed is property of a community college that is leased, licensed, or otherwise provided for use as a water conservation demonstration garden and community passive recreation resource by a joint powers agency comprised of public agencies, including the community college, and the event at which the alcoholic beverage is acquired, possessed, used, or consumed is conducted pursuant to a written policy adopted by the governing body of the joint powers agency and no public funds are used for the purchase or provision of the alcoholic beverage.

(14) The alcoholic beverage is beer or wine acquired, possessed, used, sold, or consumed only in connection with a course of instruction, sponsored dinner, or meal demonstration given as part of a culinary arts program at a campus of a California community college and the person has been authorized to acquire, possess, use, sell, or consume the beer or wine by the governing body or other administrative head of the school.

(15) The alcoholic beverages are possessed, consumed, or sold, pursuant to a license or permit obtained under this division for special events held at the facilities of a public community college

during the special event. As used in this paragraph, "special event" means events that are held with the permission of the governing board of the community college district that are festivals, shows, private parties, concerts, theatrical productions, and other events held on the premises of the public community college and for which the principal attendees are members of the general public or invited guests and not students of the public community college.

(16) The alcoholic beverages are acquired, possessed, or used during an event at a community college-owned facility in which any grade from kindergarten to grade 12, inclusive, is schooled, if the event is held at a time when students in any grades from kindergarten to grade 12, inclusive, are not present at the facility. As used in this paragraph, "events" include fundraisers held to benefit a nonprofit corporation that has obtained a license pursuant to this division for the event.

⑰ The alcoholic beverages are acquired, possessed, used, or consumed pursuant to a license or permit obtained under this division for special events held at facilities owned and operated by an educational agency, a county office of education, superintendent of schools, school district, or community college district at a time when pupils are not on the grounds. As used in this paragraph, "facilities" includes, but are not limited to, office complexes, conference centers, or retreat facilities.

(b) Any person convicted of a violation of this section shall, in addition to the penalty imposed for the misdemeanor, be barred from having or receiving any privilege of the use of public school property which is accorded by Article 2 (commencing with Section 82537) of Chapter 8 of Part 49 of Division 7 of Title 3 [FN1] the Education Code.

Proposed Policy No. _____

The District may allow the possession, sale or consumption of alcoholic beverages in connection with a special event on District property if the event organizer complies with the following conditions.

For each such event, the District shall designate a single individual who shall be responsible for compliance with this policy (“Designee”).

A) Governing Board Approval

- 1) The “special event” must be approved by the governing board of the District.

“Special event” is defined as follows: a festival, show, private party, concert, theatrical production, or other event held on the premises of the District and for which the principal attendees are members of the general public or invited guests and not students of the _____ District.

B) Required Permits Shall Be Obtained

- 1) A temporary ABC license shall be obtained for the event as required by law.
- 2) Some counties or cities require a separate permit or approval for special events when alcohol will be served. The Designee shall contact the local agency where the event is to be held to determine if such a permit is required for the event and, if so, such a permit shall be obtained.

C) District Rules for Special Events When Alcohol is Served

- 1) The Designee shall provide for the proper supervision of the event and shall ensure that the terms of this policy and any issued permit are followed.
- 2) No one under the age of 21 shall be present at the event.
- 3) All servers of alcohol at the event shall be informed of the terms of any permit and this policy. All such servers shall be at least 21 years of age.
- 4) No alcohol shall be furnished to any individual under the age of 21. The server shall request bona fide photo identification from a guest seeking alcohol whenever there is any question as to whether the individual seeking alcohol is not age 21 or older.
- 5) No alcohol shall be furnished to an obviously intoxicated person or to a habitual or common drunkard.
- 6) The service of alcohol shall be limited to one drink per person at any one time.
- 7) Drinks shall be served in containers no larger than 12 ounces.

- 8) No alcohol shall be consumed in a parking lot, sidewalk or street.
- 9) Non-alcoholic beverages shall be available for consumption at the event. Where practicable, free water shall be provided for consumption.
- 10) Where practicable, food shall be available for consumption at the event.
- 11) No attendee shall be allowed to bring his/her own alcoholic beverages to the event.
- 12) Servers of alcohol shall not also consume alcohol at the event.
- 13) The service of alcohol shall cease at least one hour prior to the end of the event.