



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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5350 Skylane Boulevard
Santa Rosa, CA 95403

Tel: (707) 524-2690
Fax: (707) 578-0517
santarosa@sclsca.org
www.sclsca.org

General Counsel
Carl D. Corbin

Attorneys
Ellie R. Austin
Monica D. Batanero
Jennifer Henry
Sarah Hirschfeld-Sussman
Nancy L. Klein
Damara L. Moore
Jennifer E. Nix
Steven P. Reiner
Kaitlyn A. Schwendeman
Loren W. Soukup
Erin E. Stagg

Of Counsel
Robert J. Henry
Margaret M. Merchat
Patrick C. Wilson
Frank Zotter, Jr.

LEGAL UPDATE

September 16, 2019

To: Superintendents, Member School Districts (K-12)
From: Jennifer E. Nix, Associate General Counsel *JEN*
Subject: New Laws Regarding Medical Immunization Waivers
Memo No. 23-2019

Two bills approved by the Governor and signed into law on September 9, 2019, will affect students with current or future medical immunization waivers.

A student who has not obtained the required immunizations as prescribed by the California Department of Public Health (“CDPH”) is not permitted to attend school. However, current law permits a student to obtain an exemption from immunization requirements by having on file a written statement by a licensed physician stating that the immunization is not considered safe for the student based on a medical condition or circumstances.

Senate Bill (“SB”) 276 requires CDPH to develop an electronic, standardized, statewide medical exemption request that would be transmitted using the California Immunization Registry (“CAIR”).¹ The standardized form must be submitted to the school via CAIR or must be printed, signed, and submitted in paper form.² After January 1, 2021, no school can accept any other form of medical waiver.³

SB 276 codifies the requirement that schools file a report on the immunization status of new entrants to the school on “at least” an annual basis.⁴ The law

¹ Health & Safety Code § 120372. The form must contain the doctor’s information, the child’s information, a statement that the physician conducted a medical examination and evaluation of the child, whether or not the physician is the child’s primary care physician, how long the physician has treated the child, a description of the medical basis for the exemption as to each exempted immunization, a statement as to whether the exemption is permanent or temporary, an authorization regarding privacy of the record, and a certification that the record is true, accurate, and complete.

² *Id.*

³ *Id.*

⁴ Health & Safety Code § 120375. Prior to this law, state regulation, 17 C.C.R. § 6075, required schools to report the immunization status of their students to the CDPH at least annually. This change codifies this requirement, and, as discussed below, provides penalties for failure to comply with this requirement.



continues to provide that “[t]he local health department shall have access to the complete health information as it relates to immunization of each student in the schools or other institutions listed in Section 120335 in order to determine immunization deficiencies.”⁵

SB 276 requires the CDPH to review all medical exemptions for: (1) schools with an overall immunization rate of less than 95%; (2) physicians who submit more than five medical exemption forms in a calendar year; and (3) schools that do not report immunization rates to the CDPH.⁶ Under certain circumstances, state health officials could revoke inappropriate or otherwise invalid medical exemptions, subject to an optional appeal.⁷

The second bill, SB 714, makes three changes to SB 276. First, SB 714 “grandfathers” in some medical exemptions. If a parent has submitted a medical exemption prior to January 1, 2020, the student can continue enrollment in any public or private school until the child enrolls in the next grade span.⁸ Any students with medical exemptions on file prior to January 1, 2020, cannot rely on that medical exemption to satisfy immunization requirements to enroll in the next grade span. Second, SB 714 removes a provision of SB 276 that would have made doctors subject to perjury prosecution based on medical exemptions. Finally, SB 714 provides the CDPH can revoke any current medical exemption issued by a doctor who has been disciplined by the state medical board for any reason.

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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⁵ *Id.*

⁶ Health & Safety Code § 120372.

⁷ *Id.* Students are permitted to continue in their school of attendance pending any appeal.

⁸ Health & Safety Code § 120370. The grade spans are the same as with the phase-out of personal belief exemptions: Birth to preschool, inclusive; kindergarten, including transitional kindergarten, and grades 1 to 6, inclusive; and grades seven to twelve, inclusive. A parent can still submit a medical exemption using the previously permissive methods from January 1, 2020, through January 1, 2021; however, it will not be grandfathered in through the child’s grade span.