



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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October 16, 2019

**To: Superintendents, Member School Districts (K-12)**  
**From: Jennifer E. Nix, Associate General Counsel** JEN  
**Subject: Administration of Medical Cannabis on Schoolsites**  
**Memo No. 32-2019**

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On October 9, 2019, Governor Newsom signed Senate Bill 223 into law. SB 223 permits, but does not require, the administration of medical cannabis on school campuses in some situations.

Pursuant to Education Code section 49414.1, as of January 1, 2020, the governing board of a school district, county board of education, or charter school serving kindergarten or any of grades 1 through 12, inclusive, may (but is not required to) adopt a policy that permits a parent or guardian of a student to bring medical cannabis onto a school site and administer it to his or her child. Such a policy must be adopted at a regular board meeting and must contain several elements required in the law. It is recommended that you consult with legal counsel prior to adoption of any such a board policy.

Nothing in the law requires school staff to administer medical cannabis, nor does anything in the law permit school staff to administer medical cannabis or store it on school grounds.

The full text of the law is attached to this Legal Update.

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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**Senate Bill No. 223**

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Passed the Senate August 30, 2019

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*Secretary of the Senate*

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Passed the Assembly August 26, 2019

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Section 49414.1 to the Education Code, relating to pupil health.

## LEGISLATIVE COUNSEL'S DIGEST

SB 223, Hill. Pupil health: administration of medicinal cannabis: schoolsites.

Existing law authorizes a school nurse or other designated school personnel to assist any pupil who is required to take, during the regular schoolday, medication prescribed for the pupil by a physician and surgeon or ordered for the pupil by a physician assistant, if the school district receives specified written statements from the physician and surgeon or physician assistant and from the parent, foster parent, or guardian of the pupil.

Existing law, the Compassionate Use Act of 1996, provides that a patient or a patient's primary caregiver who possesses or cultivates marijuana for personal medical purposes of the patient upon the written or oral recommendation or approval of a physician is not subject to conviction for offenses relating to possession and cultivation of marijuana. Existing law also requires the State Department of Public Health to establish a voluntary program for the issuance of identification cards to qualified patients who are entitled to the protections of the act.

This bill would enact Jojo's Act, which would authorize the governing board of a school district, a county board of education, or the governing body of a charter school maintaining kindergarten or any of grades 1 to 12, inclusive, to adopt, at a regularly scheduled meeting of the governing board or body, a policy, as provided, that allows a parent or guardian of a pupil to possess and administer medicinal cannabis, as defined, at a schoolsite to the pupil who is a qualified patient entitled to the protections of the Compassionate Use Act of 1996, excluding cannabis, as defined, in a smokeable or vapeable form. The bill would authorize the policy to be amended or rescinded for any reason at a regularly scheduled meeting, as specified, and for exigent circumstances at a special meeting, as specified. The bill, for pupil records collected for the purpose of administering medicinal cannabis, would require

those records to be treated as medical records and subject to all provisions of state and federal law governing the confidentiality and disclosure of medical records.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known, and may be cited, as Jojo's Act.

SEC. 2. Section 49414.1 is added to the Education Code, to read:

49414.1. (a) For purposes of this section, the following apply:

(1) "Cannabis" has the same meaning as in Section 11018 of the Health and Safety Code. "Cannabis" includes cannabis products.

(2) "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.

(3) "Medicinal cannabis" excludes medicinal cannabis or cannabis products in a smokeable or vapeable form.

(b) Notwithstanding Sections 11357 and 11361 of the Health and Safety Code, the governing board of a school district, a county board of education, or the governing body of a charter school maintaining kindergarten or any of grades 1 to 12, inclusive, may adopt, at a regularly scheduled meeting of the governing board or body, a policy that allows a parent or guardian of a pupil to possess and administer to the pupil who is a qualified patient pursuant to Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code medicinal cannabis at a schoolsite.

(c) The policy shall include, at a minimum, all of the following elements:

(1) The parent or guardian shall not administer the medicinal cannabis in a manner that disrupts the educational environment or exposes other pupils.

(2) After the parent or guardian administers the medicinal cannabis, the parent or guardian shall remove any remaining medicinal cannabis from the schoolsite.

(3) The parent or guardian shall sign in at the schoolsite before administering the medicinal cannabis.

(4) Before administering the medicinal cannabis, the parent or guardian shall provide to an employee of the school a valid written medical recommendation for medicinal cannabis for the pupil to be kept on file at the school.

(d) For purposes of confidentiality and disclosure, pupil records collected in accordance with a policy adopted pursuant to subdivision (b) for the purpose of administering medicinal cannabis to a pupil shall be treated as medical records and shall be subject to all provisions of state and federal law that govern the confidentiality and disclosure of medical records.

(e) The governing board of a school district, a county board of education, or the governing body of a charter school that adopts a policy pursuant to subdivision (b) may amend or rescind the policy at a regularly scheduled meeting of the governing board or body for any reason, including, but not limited to, if the school district, county office of education, or charter school is at risk of, or has lost, federal funding as a result of the policy.

(f) The governing board of a school district, a county board of education, or the governing body of a charter school that adopts a policy pursuant to subdivision (b) may amend or rescind the policy at a special meeting in compliance with Section 54956 of the Government Code if both of the following conditions are met:

(1) Exigent circumstances necessitate an immediate change to the policy adopted pursuant to subdivision (b).

(2) At the meeting the governing board or body will address the intent to amend or rescind the policy adopted pursuant to subdivision (b).

(g) Nothing in this section requires the staff of a school district, county office of education, or charter school to administer medicinal cannabis.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 49414.1 to the Education Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California

Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy of pupils, and parents and guardians of pupils, who are administered medicinal cannabis, it is necessary that pupil records collected for the purpose of administering medicinal cannabis be confidential.

Approved \_\_\_\_\_, 2019

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*Governor*