

Changes in Law 2018: Governance and Operations

Local Control Trumps Sleep for Teens. Governor Brown vetoed SB 328 by Senator Anthony Portantino (D–Pasadena), which would have prevented middle and high schools from starting school before 8:30am (excluding zero periods). While research around the benefits of additional sleep for adolescents is compelling, in the end, the Governor sided with local school boards and against a statewide requirement for a later start time. In his veto message, Governor Brown stated,

“This is a one-size-fits-all approach that is opposed by teachers and school boards. Several schools have already moved to later start times. Others prefer beginning the school day earlier. These are the types of decisions best handled in the local community.”

Expect Senator Portantino, current chair of the Senate Appropriations Committee, to bring this bill back in 2019.

No Local Policies Permitting Medical Marijuana Use on Campus. A bill that would have permitted local boards to adopt policies allowing parents or guardians of eligible pupils to administer medical marijuana to their children while still on school grounds was vetoed. Opposition to SB 1127 centered on liability for school employees and potential ramifications from the federal government, as marijuana is still a Class I drug. After an administrative judge ruled on a case involving a student’s right to have medical marijuana on campus, it is possible that this issue will be punted to the courts on a case-by-case basis.

Major Charter School Changes Up to Next Governor. Governor Brown has been consistently inactive on charter school legislation throughout his years in office, despite concerted efforts by labor, management and reform organizations to push legislative changes. This year, [AB 276](#) by Assembly Member Medina (D–Riverside) was sponsored by the California Teachers Association (CTA) and California School Boards Association (CSBA), and would have required charter schools and entities managing charter schools to comply with the same open meeting, conflict-of-interest, and disclosure laws as traditional school districts. The bill failed to move when a potential deal between CTA and the California Charter Schools Association (CCSA) fell apart. With a Governor expected to be less charter-friendly, it is clear reform of the Charter Schools Act is in play for 2019.

Breaking from tradition a bit this year, Governor Brown signed AB 406 by Assembly Member Kevin McCarty (D–Sacramento), which prohibits, on or after July 1, 2019, charter schools from being operated as or by a for-profit corporation, including educational management and charter management organizations. There is some thought that for-profit CMOs and EMOs will be able to continue operations while still conforming to the bill’s requirements.

Additionally, the Governor signed AB 2601 by Assembly Member Shirley Weber (D–San Diego), which will require charter schools to provide comprehensive sexual education and HIV prevention education to all students in grades 7-12, beginning with the 2019-20 school year.

Cultural Adornments OK’d for Graduation. Under AB 1248 by Assembly Member Todd Gloria (D–San Diego), high school students are now protected in wearing culturally or religiously significant adornments at their graduation ceremonies, barring any additions to the traditional cap and gown that a local education agency (LEA) deems likely to cause disruption. The Governor vetoed a similar bill last year, but several incidents in which African American, American Indian and Alaska Native students were prohibited from wearing objects of cultural or religious significance at commencement ceremonies likely swayed the Governor that more clarity was needed on the issue for both administrators and students.

New Restrictions on Personal Information Published in Meeting Minutes. Parents and students 18 and older can now make a written request that their personally identifiable information, including name, address, birthday, and email address, be withheld from the minutes of a meeting of the governing board. SB 1036 by Senator Scott Wilk (R–Santa Clarita), which applies to school districts, county offices of education (COEs) and charter schools, is meant to protect parents and students from retaliation from those who disagree with their feelings expressed during the public meeting.

Restraint and Seclusion Prohibitions Expanded to All Students. AB 2657 (Weber) prevents school staff from using physical, mechanical, or chemical restraints on any pupil, unless that pupil poses a safety concern to him or herself or others. The bill specifically prevents educational providers from doing the following:

1. Using seclusion or a behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation
2. Using locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room
3. Using a physical restraint technique that obstructs a pupil's respiratory airway or impairs the pupil's breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil's back or places his or her body weight against the pupil's torso or back
4. Using a behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat, or other item to cover a pupil's face
5. Placing a pupil in a facedown position with the pupil's hands held or restrained behind the pupil's back
6. Using a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others

The bill also requires the pupil's educational provider to keep constant, direct observation of a pupil who is in seclusion, and reinstates reporting requirements on LEAs, which must submit to the California Department of Education (CDE) on the use of restraints and seclusions disaggregated by race or ethnicity and gender.

Greater Clarity for LEAs on LEA Billing Option Program. In response to inconsistent claiming policies, Assembly Member Patrick O'Donnell (D–Long Beach) authored AB 3192 to bring greater clarity to the LEA Medi-Cal Billing Option Program (LEA BOP). The bill requires the Department of Health Care Services (DHCS) to consult with an existing Ad Hoc workgroup to create a program guide that contains fiscal and programmatic compliance information to facilitate the correct and appropriate submission of claims to the Department. Additional clarity, the bill author hopes, will stem the tide of frustrated programs pulling out of the LEA BOP.

The Governor signed the following governance/operations bills:

Charter Schools

AB 406 (McCarty) - Charter schools: operation.

This bill prohibits, on and after July 1, 2019, a petitioner that submits a charter petition for the establishment of a charter school or a charter school that submits a charter renewal or material revision application from operating as, or being operated by, a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization.

Chapter 291, Statutes of 2018

AB 2601 (Weber) - Pupil instruction: sexual health education: charter schools.

This bill requires charter schools to provide comprehensive sexual health education and HIV prevention education to all students in grades 7 to 12, commencing with the 2019–20 school year.

Chapter 495, Statutes of 2018

District Boundaries/Student Transfers

AB 2826 (Friedman) - Pupil enrollment: interdistrict attendance.

This bill requires each school district of residence and school district of proposed enrollment to post on its website the procedures and timelines regarding a request for an interdistrict transfer permit, including, among other things, the date upon which the school district will begin accepting and processing interdistrict transfer requests for the subsequent school year and statements that a school district must notify a parent submitting a current year request of its final decision within 30 calendar days from the date the request was received and notify a parent submitting a future year request of its final decision as soon as possible, but no later than 14 calendar days after the start of the school year for which the transfer is sought.

Chapter 550, Statutes of 2018

AB 2949 (Gloria) - Pupil residency: pupils of military families.

The measure requires LEAs to allow a pupil who is a child of a military family to continue attending his or her school of origin, or a school within the school district of origin, regardless of any change of residence of the military family or the end of military service of the pupil's parent.

Chapter 327, Statutes of 2018

Elections

AB 2123 (Cervantes) - District-based elections.

This bill permits a political subdivision and a prospective plaintiff to enter into a written agreement to extend the time period during which a prospective plaintiff is prohibited from commencing an action under the California Voting Rights Act for up to an additional 90 days in order to provide additional time to conduct public outreach, encourage public participation, and receive public input. The bill also requires the written agreement to include a requirement that the district boundaries be established no later than 6 months before the political subdivision's next regular election to select governing board members.

Chapter 277, Statutes of 2018

AB 2449 (Arambula) - School districts, county offices of education, and community college districts: governing boards: elections.

Current law provides that the terms of office for a newly elected member of the governing board of a school district, COE, or community college district commence on either the first Friday in December, for school districts and community college districts, or the last Friday of November for COEs. This bill extends the date by which any of those members would assume office to the second Friday in December.

Chapter 146, Statutes of 2018

AB 2540 (Mullin) - State facilities and public buildings: vote centers and polling places.

Current law requires that state-owned buildings, parking lots, and other facilities be made available free of charge for use as polling places. This bill extends this requirement to vote centers and requires a governing body with jurisdiction over school buildings or other public buildings, upon request by a city or county elections official, to allow those buildings to be used as vote centers beginning up to 10 days prior to an election day.

Chapter 343, Statutes of 2018

SB 25 (Portantino) - Elections: alternate ballot order: Los Angeles County pilot program.

This bill requires the County of Los Angeles to conduct a pilot project using an alternative election ballot order, under which local offices would appear on the ballot before state and federal offices, for any election conducted during the three years

after the date the LA County voting modernization project is complete and ready for operation. The bill also requires county election officials to prepare a report on the effect of using the alternative ballot order and to submit the report to the Secretary of State and the Legislature.

Chapter 927, Statutes of 2018

SB 759 (McGuire) - Elections: vote by mail ballots.

Current law requires an elections official, upon receipt of a vote by mail ballot, to compare the signature on the identification envelope with either the signature appearing on the voter's affidavit of registration, or the signature appearing on a form issued by an elections official. If the elections official determines that the signatures do not compare, the identification envelope shall not be opened and the ballot shall not be counted. This bill eliminates the prohibition on counting the ballot and instead requires the elections official to notify the voter and give the voter an opportunity to submit a "signature verification statement," verifying his or her signature, before certification of the election.

Chapter 446, Statutes of 2018

SB 1153 (Stern) - Local initiatives: review.

Current law allows the proponents of a statewide initiative to withdraw an initiative up until the qualification deadline, even if the the initiative has enough signatures to qualify. This bills extends these provisions to local jurisdictions by authorizing the proponent of a county, municipal, or district initiative to withdraw an initiative at any time before the 88th day before the election, whether or not the petition has already been found sufficient by the elections official.

Chapter 155, Statutes of 2018

Governance/Operations

AB 807 (Chu) - Daylight saving time.

This bill places a initiative on the November 6, 2018 ballot to repeal the Daylight Saving Time Act, require the standard time within the state to be that of the Pacific standard time, and require the advancement of this time by one hour during the daylight saving time (DST) period commencing at 2 a.m. on the 2nd Sunday of March of each year and ending at 2 a.m. on the first Sunday of November of each year. The bill also authorizes the Legislature to amend these provisions by a 2/3 vote to provide for the application of year-round DST when authorized by federal law.

Chapter 60, Statutes of 2018

AB 1248 (Gloria) - Pupils: wearing of traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies.

This bill authorizes a pupil to wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies. The bill also declares that nothing in its provisions shall be construed to limit a LEA's discretion and authority to prohibit an item that is likely to cause a substantial disruption of, or material interference with, the ceremony.

Chapter 804, Statutes of 2018

AB 1887 (Medina) - Public education governance: service on boards and commissions.

Current law provides that a person is incapable of holding a civil office if, at the time of his or her election or appointment, he or she is not 18 years of age and a citizen of the state. This bill authorizes any pupil under the age of 18 attending a California public secondary school, including undocumented students, to be eligible to serve on any board or commission. The bill also authorizes any postsecondary student, including undocumented students, to serve in any capacity in student government or be eligible to serve on a statewide board or commission. This bill took effect immediately.

AB 2109 (O'Donnell) - Pupils: pupils with a temporary disability: individual instruction: pupils who are terminally ill: honorary diplomas.

This bill requires a pupil with a temporary disability to receive either individual instruction at home provided by the school district in which the pupil is deemed to reside, or individual instruction in a hospital or other residential health facility, excluding state hospitals, provided by the school district in which the hospital or other residential health facility is located. The bill also authorizes a school district or charter school to continue to enroll a pupil with a temporary disability who is receiving individual instruction under these provisions, in order to facilitate the timely reentry of the pupil in his or her prior school after the hospitalization has ended, or in order to provide a partial week of instruction to the pupil. Additionally, the bill authorizes the governing board of a school district, COE, and the governing body of a charter school maintaining a high school to confer an honorary high school diploma upon a pupil who is terminally ill.

Chapter 167, Statutes of 2018

AB 2958 (Quirk) - State bodies: meetings: teleconference.

Current law provides that if a state body elects to conduct a meeting or proceeding by teleconference, the body must post agendas at all teleconference locations, identify each teleconference location in the notice and agenda, and make each teleconference location accessible to the public. This bill authorizes a member of an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body, to participate in a teleconference meeting remotely and does not require the remote location to be disclosed, or accessible to, the public.

Chapter 881, Statutes of 2018

AB 3192 (O'Donnell) - LEA Medi-Cal billing option: program guide.

This bill requires the DHCS, in consultation with the LEA Ad Hoc Workgroup, to issue and regularly maintain a program guide for the LEA Medi-Cal Billing Option program. The bill also requires DHCS to distribute the program guide to all participating LEAs, charter schools, and community colleges by January 1, 2020 and requires the department to conduct an audit of a Medi-Cal billing option claim consistent with the program guide.

Chapter 658, Statutes of 2018

SB 1036 (Wilk) - Local educational agencies: minutes of meetings of governing bodies: inclusion of directory information and personal information of pupils and parents or guardians of pupils.

SB 1036 prohibits an LEA from including the directory or personal information of a pupil or of the parent or guardian of a pupil in the minutes of a meeting of the governing body of the LEA, if a pupil who is 18 years of age or older or a parent or guardian of a pupil has provided a written request to the secretary or clerk of the governing body to exclude his or her personal information or the name of his or her minor child.

Chapter 788, Statutes of 2018

SB 1289 (Committee on Judiciary) - Maintenance of the codes.

Current law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes. This bill makes various grammatical and other technical changes suggested by Legislative Counsel in order to correct non-substantive errors that exist in the original bill text.

Chapter 92, Statutes of 2018

SCR 117 (Newman) - Mendez v. Westminster School District Day.

This measure designated April 14, 2018, as Mendez v. Westminster School District Day. Mendez v. Westminster School District, which preceded Brown v. Board of Education by eight years, dealt with the case of an Mexican-American student who was turned away from a California public school for white students only.

PRA/Government Code 1090

SB 1244 (Wieckowski) - Public records: disclosure.

Under the California Public Records Act, when it appears to a superior court that certain public records are being improperly withheld from a member of the public, the court must order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The Act requires the court to award court costs and reasonable attorney's fees to the plaintiff if the plaintiff prevails in litigation filed pursuant to these provisions, and requires the court to award court costs and reasonable attorney's fees to the public agency if the court finds that the plaintiff's case is clearly frivolous. This bill would replace "plaintiff" with "requester" in that provision, would make conforming changes, and would specify that these provisions do not preclude the award of fees and costs pursuant to other provisions of law.

Chapter 463, Statutes of 2018

Student Discipline

AB 2657 (Weber) - Pupil discipline: restraint and seclusion.

This bill authorizes an educational provider to use behavioral restraints, which includes physical and mechanical restraints, or seclusion, only to control behavior that poses a clear and present danger of serious physical harm to the pupil or others that cannot be immediately prevented by a response that is less restrictive. The bill also prohibits an educational provider from using a behavioral restraint or seclusion in certain circumstances, including, but not limited to, using seclusion or a behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation, and prohibits the use of locked seclusion or restraint techniques that obstruct or restrict a pupil's breathing.

Chapter 998, Statutes of 2018

Capitol Advisors Group has produced a series of comprehensive client briefs detailing new education laws that were passed by the Legislature and signed into law by Governor Brown in 2018. Each brief is organized by subject area and includes an executive summary highlighting major changes we think you should know about. Bills signed by the Governor take effect on January 1, 2019, unless the bill specifically states otherwise.