



YOUNG, MINNEY & CORR, LLP

LEGAL ALERT

Significant Changes to the California Employment Law Landscape

In an already busy legislative year marred by COVID-19, Governor Gavin Newsom signed into law a spate of COVID-19 and employment-related bills this Fall, slated to take effect on or before January 1, 2021. Charter schools should carefully review the following noteworthy changes, and ensure they immediately revise their Employee Handbooks and COVID-19 Health and Safety policies as outlined below.

Workers' Compensation Presumption (SB 1159)

Expanding a prior executive order on the same issue, Governor Newsom signed SB 1159 into law on September 17, 2020 which establishes a rebuttable workers' compensation presumption for employers with at least five (5) employees if an employee tests positive within fourteen (14) days of a COVID-19 "outbreak" at their place of employment. An "outbreak" is defined as:

- Four (4) employees test positive if the employer has one hundred (100) employees or fewer;
- Four percent (4%) of the number of employees who reported to the place of employment test positive if the employer has more than one hundred (100) employees; or
- The place of employment is ordered to close by a local public health department, the State Department of Public Health, the Division of Occupational Safety and Health, or a school superintendent due to a risk of infection of COVID-19.

In addition, if an employer knows or reasonably should know that an employee has tested positive for COVID-19, the employer must report certain information to its workers' compensation claims administrator. Employers may be subject to civil penalties of up to \$10,000 for intentionally submitting false or misleading information, or failing to report required information. SB 1159 goes into effect immediately and expires on January 1, 2023.

COVID-19 Reporting Requirements (AB 685)

As noted in our October 2, 2020 Legal Alert, AB 685 mandates increased COVID-19 reporting requirements for nearly all California employers. Employees, labor unions, and contractors must be notified within one (1) business day of any "potential exposure" to COVID-19 in the workplace with specific information regarding their rights in response to the exposure, as well as the employer's disinfection/safety plan. Similarly, the local public health agency must be notified within forty-eight (48) hours in the event of an "outbreak" in the workplace.

AB 685 goes into effect January 1, 2021. With this deadline fast-approaching, all charter schools should ensure they amend their existing COVID-19 Health and Safety policies, or if they do not yet have such policies, adopt them immediately, to reflect these new reporting requirements.

California Family Rights Act (“CFRA”) (SB 1383)

SB 1383 extends CFRA coverage to all California employers with at least five (5) or more employees. Prior to SB 1383, CFRA and the federal Family and Medical Leave Act (“FMLA”) only applied to employers with fifty (50) or more employees within a 75-mile radius. Although the New Parent Leave Act lowered the threshold for baby-bonding leave in California to employers with twenty (20) employees within a 75-mile radius back in 2018, the new CFRA threshold of only five (5) employees, regardless of geographic restrictions, greatly expands employee access to job-protected leaves of absence.

SB 1383 also expands the definition of a family member from previously only applying to leave to care for a spouse, parent, or child to now cover grandchildren, grandparents and siblings. In addition, a child now includes any adult children, regardless of the child’s age or dependency status. SB 1383 further eliminated exceptions for “key employees,” as well as limits on the amount of leave which may be taken when, for example, both parents of a new child work for the same employer. Given these significant changes, all charter schools should revise their leave policies in their Employee Handbook and ensure they are prepared to implement these new leave requirements by January 1, 2021 when SB 1383 goes into effect.

Should you have any questions about this Legal Alert, please contact Chastin H. Pierman (cpierman@mycharterlaw.com), Roger L. Scott (rscott@mycharterlaw.com), Sarah Cassady (scassady@mycharterlaw.com), or Anthony E. Serrao (aserrao@mycharterlaw.com) at (916) 646-1400.