

It's the Law Now!



**Inland Personnel Council
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Agenda

- ✓ Part 1 – New Legislation
 - ✓ Human Resources
 - ✓ Professional Development
 - ✓ STRS
 - ✓ Teacher Shortage
 - ✓ School Safety
 - ✓ Governance/Operations
 - ✓ Miscellaneous
- ✓ Part 2 – Case Law
- ✓ Questions & Answers

New HR Laws



New HR Laws

AB 472 (Compulsory Leave of Absence)

- Existing law allowed school board to grant leaves of absence with or without pay.
- New law (Ed. Code, § 45190):
 - Allows board to grant voluntary leaves of absence for classified employees with or without pay.
 - Establishes that if a classified employee is placed on an involuntary leave of absence because the employee is:
 - (1) Charged with a criminal offense,
 - (2) Under a criminal investigation, or
 - (3) Waiting due to administrative delay for necessary job-related administrative determinations.
 - Then, upon conclusion of proceedings in favor of the employee, the district shall pay the employee's full compensation for the period of the involuntary leave.

New HR Laws

AB 897 (Service Credit for Probation Time)

- Beginning July 1, 2024.
- Probationary employees of an adult education program who work at least 75% of the number of hours constituting a full-time position, are deemed as having served a complete school year.
- If this conflicts with a collective bargaining agreement entered into before July 1, 2024, the provisions will not apply to the district until the agreement expires or is renewed.

New HR Laws

AB 1273 (Classified Staffing Ratio Workgroup)

- Requires California Department of Education to convene the Classified Employee Staffing Ratio Workgroup on or before December 31, 2024.
- They will group classified assignments in a reasonable manner that:
 - Reflects the environmental setting of the assignment,
 - The type of work to be completed, and
 - The impact on the assignment made by enrollment at a school site, specialized needs, including certifications or licenses, and other reasonable factors.
- They will recommend reasonable staffing ratios per grouping.

New HR Laws

AB 1355 (Notice of Benefits Options)

- Current law requires employers to notify all employees that they may be eligible for specified income tax filing assistance programs and tax credits by handing the documents directly to the employee or through home address mailings.
- New law allows employers, until January 1, 2029, to provide the notification via email to an email account of the employee's choosing if the employee opts in
- Additionally, an employer can't terminate, discriminate, retaliate, or take adverse action against an employee who doesn't opt into receipt of electronic statements or materials.
- (Rev. & Tax. Code, § 19853.)

New HR Laws

SB 428 (Temporary Restraining Orders)

- Currently, the law allows employers to obtain a temporary restraining order on behalf of employee who suffered unlawful violence or credible threat of violence in the workplace. (Code of Civ. Pro., § 527.8.)
- The law will change to allow a union representative to file a workplace violence restraining order on behalf of employee who has suffered unlawful violence or credible threat of violence or harassment in the workplace.



New HR Laws

SB 428 (Temporary Restraining Orders)

- New law will also require the employer and union to contact the employee and give them the opportunity to decline to be named in the TRO.
- This does not affect the ability for the employer or union representative to seek a TRO on behalf of other employees.
- This new law will become operative on January 1, 2025.

New HR Laws

SB 497 (Protected Employee Conduct)

- Current law prohibits employer from taking adverse action against an employee or job applicant who has engaged in protected conduct and prohibits preventing an employee from reporting to outside agencies alleged violations of law.
- Law also prohibits an employer from paying less to an employee based upon their sex for substantially similar work.
- New law states that “if an employer engages in any action prohibited by this section within 90 days of the protected activity” there is “a rebuttable presumption in favor of the employee’s claim.” (Lab. Code, §§ 98.6(b)(1); 1197.5(k)(1).)
- There is a potential civil penalty of up to \$10,000 per violation. (Lab. Code, § 1102.5(f)(1).)

New HR Laws

SB 553 (Workplace Violence Prevention Plan)

- Currently the law requires that an employer maintain an injury prevention program.
- New law will require that employer maintain a workplace violence prevention plan and record information in a violent incident log. (Lab. Code, § 6401.9.)
- The record must be maintained for a minimum of five years.
- Records should be made available for inspection to the government, employees, and union representatives.
- Employees would also need to undergo additional training when a new or previously unrecognized workplace violence hazard has been identified.

New HR Laws

SB 553 (Workplace Violence Prevention Plan)

- The plan shall include:
 - Names or job titles of the persons responsible for implementing the plan.
 - Methods to coordinate implementation of the plan to ensure that those involved understand their respective roles.
 - Effective procedures, including:
 - To obtain the active involvement of employees and authorized representatives in developing and implementing the plan.
 - To accept and respond to reports of workplace violence.
 - To prohibit retaliation against an employee who makes a report.
 - To ensure that supervisory and nonsupervisory employees comply with the plan.
 - To communicate with employees regarding workplace violence matters.
 - To alert employees of the presence, location, and nature of workplace violence emergencies.
 - To identify, evaluate, and correct workplace violence hazards.
 - To review the effectiveness of the plan and revise the plan as needed.
 - See Lab. Code, § 6401.9.

New HR Laws

SB 616 (Paid Sick Days - Accrual and Use)

- Current law requires employer to provide no less than 24 hours or 3 days of paid sick leave that is available to an employee to use by the completion of the employee's 120th calendar day of employment.
- SB 616 expands this so that an employer must provide no less than 40 hours or 5 days of paid sick leave that is available to the employee to use by the completion of the employee's 200th calendar day of employment.

New HR Laws

AB 2188 / SB 700 (Cannabis Use)

- New law makes it unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalizing a person, if the discrimination is based upon the person's use of cannabis off the job and away from the workplace.
- This does not prohibit an employer from penalizing a person based on scientifically valid preemployment drug screening conducted through methods that do not screen for nonpsychoactive cannabis metabolites.
- (Gov. Code, § 12954.)

New HR Laws

AB 2188 / SB 700 (Cannabis Use)

- It is unlawful for an employer to request information from an applicant for employment relating to the applicant's prior use of cannabis:
 - Unless it's obtained from the person's criminal history (and other exceptions).
 - Unless the employer is permitted to consider or inquire about that information under Section 12952 or other state or federal law.
- In other words, since school districts are required under section 12952 to obtain background checks, they may consider a job applicant's prior cannabis convictions in employment.
- This section does not permit an employee to possess, to be impaired by, or to use, cannabis on the job, or affect the rights or obligations of an employer to maintain a drug- and alcohol-free workplace.
- (Gov. Code, § 12954.)

New HR Laws

SB 848 (Leave for Reproductive Loss)

- Current law protects employee's right to bereavement leave.
- SB 848 makes it an unlawful employment practice for an employer to refuse to grant a request by an eligible employee to take up to 5 days of reproductive loss leave following a reproductive loss event.
- The bill requires such leave be taken within 3 months of the event and pursuant to any existing leave policy of the employer.
- In the absence of an existing policy, the reproductive loss leave may be unpaid, but the bill authorizes an employee to use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee.

New Professional Development Laws



Professional Development

AB 1127 (Bilingual Teacher Professional Dev.)

- Current law requires a Bilingual Teacher Professional Development program for teachers seeking to provide instruction in bilingual and multilingual settings.
- New law would expand individuals who would be eligible.
- Includes credentialed teachers or education specialists.
- Includes those “who are currently enrolled in, or have completed, programs to support bilingual teacher education in languages in the classroom, such as Arabic, Cantonese, Mandarin, Spanish, Tagalog, and Vietnamese, and other languages...”
- (Ed. Code, § 52202(c)(4).)

Retirement



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Retirement

SB 432 (Teachers' Retirement)

- SB 432 clarifies certain provisions of last year's AB 1667 related to the recovery of pension overpayments from CalSTRS to retired teachers due to errors in reported compensation.
- SB 432 requires CalSTRS to identify and provide resources on its website and requires those identified resources to be relied upon and used for purposes of audits and other actions related to compliance by employers, unless the resource is revoked or superseded.

Teacher Shortage



Teacher Shortage

AB 934 (CTC Campaign)

- Currently the law requires CTC to disseminate information regarding support to new teachers.
- New law will require CTC to contract with a public relations organization, or other organization with similar expertise, to develop a public awareness campaign that highlights the value and benefits of educational careers in California's public schools. (Ed. Code, § 44224(b).)
- This also gives CTC the authorization to target “public service announcements relating to teacher recruitment and outreach to high school pupils and college students.” (Ed. Code, § 44224(e).)

School Safety



School Safety

AB 452 (Sexual Assault SOL)

- AB 452 eliminates the time limit for the commencement of actions for recovery of damages suffered as a result of childhood sexual assault for civil actions that arise on or after the date when the bill takes effect.

School Safety

SB 558 (Childhood Sexual Abuse)

- This bill replicates the existing civil statute of limitations applicable to childhood sexual assault claims in a new statute that applies only to those acts of sexual assault that occur before January 1, 2024.
- It adds violations of specified Penal Code provisions involving childhood sexual abuse material to the definition of childhood sexual assault, but only those occurring before January 1, 2024.

School Safety

SB 531 (Background Checks)

- This bill is regarding student work experience.
- New law would exempt independent contracts from undergoing a background check if:
 - (A) At least one adult employee in the workplace during the pupil's work hours, who has direct contact with the pupil and has been designated by the employer as the employee of record who is responsible for the safety of the pupil, has a valid criminal records summary...
 - (B) A staff representative of the local educational agency makes at least one visitation every three weeks to consult with the pupil's workplace liaison, observe the pupil at the workplace, and check in with the pupil to ensure the pupil's health, safety, and welfare, including by addressing any concerns the pupil has raised.
 - (C) The parent or guardian of the pupil has signed a consent form regarding the pupil's work placement, attesting that the parent or guardian understands the duties assigned to the pupil and the nature of the workplace environment.
- (Ed. Code, § 45125.1.)

School Safety

SB 531 (Background Checks)

- If a pupil participates in services provided by a contractor as part of an independent study program and the pupil is under the immediate supervision and control of the pupil's parent or guardian during the provision of those services, the LEA must:
 - (A) Verify completion of a valid criminal records summary for all employees of the contractor who interact with the pupil, or
 - (B) Ensure that the parent or guardian of the pupil has signed a consent form before the pupil's interaction with a person employed by the contractor.
- (Ed. Code, § 45125.1.)

Governance/Operations



Governance/Operations

SB 494 (Superintendent's Termination)

- Prohibits the governing board of a school district from taking action to terminate a superintendent or assistant superintendent, without cause, at a special or emergency meeting of the governing board or within 30 days after the first convening of the governing board after an election at which one or more members of the governing board are elected or recalled.
- For the purpose of terminating a superintendent or assistant superintendent, or both, *without cause*, the governing board of a school district can hold a regular meeting, as specified, during any month in which a regular meeting of the governing board is not scheduled.

Governance/Operations

AB 557 Teleconferencing for Emergencies

- Governing boards may hold a teleconference meeting using abbreviated teleconferencing procedures when a declared state of emergency is in effect.
- This extends indefinitely that authority where the legislative body:
 - (1) Meets to determine whether, due to the emergency, meeting in person would present imminent risks to the health or safety of attendees, or,
 - (2) Has previously made that determination.
- This extends the period that the legislative body can verify that alternative procedures from the Traditional Teleconference Rules during a declared state of emergency is still necessary.
- The legislative body must make findings no later than 45 days (as opposed to 30 days) after the first teleconference and every 45 days thereafter.

Governance/Operations

SB 554 Teleconferencing

- An emergency circumstance allowing up to 2 board members of a 5 or more Board to attend remotely include:
 - Personal medical emergency,
 - Spouse medical emergency, or
 - Child medical emergency.
- Just cause rules for a board member to attend remotely
 - A quorum must participate in a single physical location.
 - The Board must provide a method for the public to hear, see and remotely address the Board.
 - The agenda must include the method by which the public can participate in the meeting remotely.
- Just cause and emergency circumstances remote attendance rules expire July 1, 2026.

Governance/Operations

SB 29 (Political Reform Education Program)

- The Political Reform Act provides a comprehensive regulation of campaign financing laws. One such statute exposes PRA violators to possible civil or criminal penalties.
- New law would set up a political reform education program which would exempt a person from administrative, civil, or criminal penalties for violation of the PRA.
- To participate:
 - The person has little or no experience with the section that the person violated.
 - The underlying violation resulted in minimal or no public harm.
 - The person has not been ordered to pay a penalty for the same type of violation in the previous five years.
 - There is no evidence of an intent to violate this title or to conceal a violation.
- (Gov. Code, § 83116.7.)

Governance/Operations

SB 29 (Political Reform Education Program)

- Also, the new law would limit liability for failure to file the statement or report.
- It states that:
 - Liability shall not be enforced by the filing officer if the person who filed the late statement or report was unable to timely file the statement or report due to serious illness or hospitalization.
 - Liability shall not be enforced by the filing officer if the person who filed the late statement or report completes the political reform education program pursuant to Section 83116.7 for that late filing violation.
- (Gov. Code, § 91013.)

Miscellaneous



Miscellaneous

AB 1722 (Licensed Vocational Nurses)

- AB 1722 authorizes, until January 1, 2029, an LEA to employ a licensed vocational nurse (LVN) who is supervised by a credentialed school nurse (CSN) employed by the same LEA or a different LEA.
- The bill prohibits interpreting this provision to allow a LVN to go beyond the approved scope of practice pursuant to the Vocational Nursing Practice Act.
- The bill requires an LEA to only hire an LVN if a diligent search has been conducted for a suitable credentialed school nurse each school year and requires an LEA to seek approval from its governing board or body before hiring an LVN.

Miscellaneous

AB 5 (Training)

- The bill requires, commencing with the 2025–26 school year and ending with the completion of the 2029–30 school year, each LEA serving pupils in grades 7 to 12, to use the online training delivery platform and curriculum required to be developed by CDE under this bill, or an in-service alternative, to provide at least one hour of required training annually to teachers and other certificated employees at those schools.
- The bill also requires each LEA to maintain records documenting the training.
- Requires the State Dept. of Education, on or before July 1, 2025, to finalize the development of an online training delivery platform and an online training curriculum to support LGBTQ cultural competency training for teachers and other certificated employees, as specified.

Miscellaneous

AB 800 (Workplace Readiness Week)

- This bill requires the week of each year that includes April 28 to be known as “Workplace Readiness Week.”
- It requires all public high schools, including charter schools, to annually observe the week by providing information to pupils on their rights as workers.
- AB 800 requires the observances to be integrated into the regular school program in grades 11 and 12, consistent with the history-social science framework.

Miscellaneous

AB 947 (Consumer Privacy Act)

- The California Consumer Privacy Act of 2018 (CCPA) grants to a consumer various rights with respect to sensitive personal information that is collected by a business.
- This bill expands the definition of “sensitive personal information,” for purposes of the CCPA’s provisions, to include personal information that reveals a consumer’s citizenship or immigration status.

Cases



Case Law

Groff v. Dejoy (2023) 600 U.S. 447

- A former U.S. Postal Service worker sued the Postmaster General under Title VII, alleging that the Postal Service failed to make reasonable accommodations for his Sunday Sabbath practice by making him work on Sunday.
- One provision of Title VII makes it unlawful for employers to discriminate against a person on the basis of their religion. The previous standard to determine whether undue hardship for religious accommodations was a *de minimis* test which was lower standard to meet.
- The U.S. Supreme Court has now adopted a higher standard in that “an employer must show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business.” (*Id.* at 470.)
- This would require “that courts must apply the test in a manner that takes into account all relevant factors in the case at hand, including the particular accommodations at issue and their practical impact in light of the nature, ‘size and operating cost of [an] employer.’” (*Id.* at 470-471.)

Case Law

LAUSD v. OAH (2023) 91 Cal.App.5th 208

- A teacher with unsatisfactory teaching performance was served with an intent to recommend dismissal and statement of charges. Included in the dismissal documents was a notice that the teacher be suspended without pay.
- The teacher brought forward and prevailed on a motion for immediate reversal of suspension. The district sought a writ of administrative mandamus in the Superior Court to set aside the order.
- The Superior Court denied the writ, by holding the motion of immediate reversal of suspension is not reviewable by the court. The district appealed to the court of appeal.
- The Appellate Court affirmed the decision.

PERB Decision

Oakland Education Association (2023) PERB Dec. No. 2875

- PERB affirmed the ALJ's holding that a decision to close schools is a non-mandatory subject of bargaining but that they must bargain its effects.
- PERB stated that “an employer must bargain over notice of a school closure, either in effects/implementation bargaining over a particular closure decision or as a mandatory subject if the issue arises as a proposed new or changed policy of general application. Thus, while an employer has no duty to adopt a prospective policy providing for minimum notice of closures, where it does so—in this case via the nine-month requirement—that becomes the status quo, and a subsequent change normally requires decision bargaining, absent a valid business necessity defense.” (*Id.* at 15.)

Question & Answer Session

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Thank You

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