



CLIENT NEWS BRIEF

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NEW LAW CLARIFIES REQUIREMENTS RELATED TO THE ACTIVITY SUPERVISOR CLEARANCE CERTIFICATE

On July 9, 2010, Governor Schwarzenegger signed Assembly Bill 346 ("AB 346") (Ch. 52, Stats. 2010), which clarifies the requirements set out in Assembly Bill 1025 ("AB 1025") (Ch. 379, Stats. 2009) that noncertificated paid school employees and unpaid volunteers obtain an Activity Supervisor Clearance Certificate ("ASC Certificate"). (Please see our [2009 CNB No. 43](#)). AB 346 was urgency legislation, making it effective immediately after the Governor signed it.

Education Code section 49024, as added by AB 1025, required that any noncertificated person assuming a paid or volunteer position to supervise, direct, or coach a "pupil activity program" sponsored by or affiliated with a school district obtain an ASC Certificate from the California Commission on Teacher Credentialing. AB 346 amends and expands this requirement to apply to any person who will assume a paid or volunteer position to work with students in a "pupil activity program" sponsored by a school district. The definition of a "pupil activity program" in Education Code section 49024 remains unchanged and includes scholastic and interscholastic programs, and extracurricular activities sponsored by a school district or school booster club, such as cheer team, drill team, dance team, and marching band.

While AB 346 expands the pool of candidates required to obtain an ASC Certificate, AB 346 also provides a variety of exemptions to the certification requirement. Education Code section 49024, as added to the Education Code by AB 1025, exempted volunteer supervisor positions for breakfast, lunch or other nutritional periods and nonteaching volunteer aides under the immediate supervision and direction of certificated personnel from requiring an ASC Certificate. AB 346 amends section 49024 to clarify that "nonteaching volunteer aids" include parents volunteering in the classroom and on fieldtrips, and community members providing noninstructional services, such as giving speeches. In addition, AB 346 eliminates the requirement that noncertificated individuals working with students in programs "affiliated with" school districts, such as Head Start, obtain the ASC Certificate.

AB 346 adds another new provision to Education Code section 49024, which appears to narrow the scope of those persons required to obtain an ASC Certificate. Specifically, as amended by AB 346, section 49024 exempts from the ASC Certificate requirement those persons who are required by the school district to clear a Department of Justice and Federal Bureau of Investigations background check before starting their position. Thus, if the District requires a person serving in a pupil activity program to otherwise clear a background check, the candidate is not required to obtain the ASC Certificate.

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AB 346 also amends Education Code section 45125.01 to extend its application to noncertificated candidates assuming paid or volunteer positions pursuant to Education Code section 49024. Education Code section 45125.01 allows school districts to select a single district or county superintendent to perform background checks for applicants of noncertificated paid or volunteer positions serving or applying in multiple districts or counties, and to maintain lists of said candidates who pass the background check on behalf of all the participating districts, among other things.

Finally, AB 346 provides an alternative to the ASC Certificate requirement by allowing the school districts to maintain a policy that would require noncertificated individuals (paid and volunteer) working with students in pupil activity programs to be fingerprinted and clear background checks prior to commencing the position.

Given that the amendments made by AB 346 are currently in effect, school districts should review their board policies and regulations as soon as possible regarding hiring practices for noncertificated employees and volunteers serving in pupil activity programs to ensure that those employees and volunteers are required to either obtain an ASC Certificate or submit fingerprints for a background check prior to assuming the position.

For more information on hiring criteria, please do not hesitate to contact one of our [seven offices](#) located statewide or consult our [website](#).

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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.