

# CLIENT NEWS BRIEF

## 2019 Updates: Annual Notice Of Parental Rights And Responsibilities

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California school districts and county offices of education are required annually, at the beginning of each school year, to provide written notice of parental rights and responsibilities. Lozano Smith continuously tracks legislation impacting these notices. The following summarizes changes in California law that call for mandatory or optional updates to the Annual Notice of Parental Rights and Responsibilities (Annual Notice).

### **Discrimination Based on a Student's Parental, Family, or Marital Status**

Assembly Bill (AB) 2289 took effect on January 1, 2019 and, among other things, added Education Code section 221.51, which prohibits Local Educational Agencies (LEAs) from applying any rule concerning a pupil's actual or potential parental, family, or marital status that treats pupils differently on the basis of sex. Annual Notice non-discrimination provisions should be updated to include language prohibiting discrimination based on a student's actual or potential parental, family or marital status.

### **Pregnant and Parenting Student Rights**

AB 2289 also requires LEAs to provide: (1) notice to pregnant and parenting students of their rights and options through annual welcome packets and independent study packets; and (2) annual notice to parents and guardians at the beginning of the school year of the rights and options available to pregnant and parenting students. (Ed. Code § 222.5.)

These rights include, but are not limited to, the right of pregnant or parenting students to:

- not be treated differently on the basis of sex;
- participate in educational and extracurricular activities, if physically and emotionally able to participate;
- not be required to participate in pregnant minor programs or alternative education programs;
- have their pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom treated in the same manner and under the same policies as any other temporary disabling condition;
- voluntarily take eight weeks of parental leave, or more if deemed medically necessary by the student's physician;
- not be required to complete academic work or other school requirements while on parental leave;
- return to the school and the course of study in which the student was enrolled before taking parental leave or to instead elect to participate in an alternative education program; and
- not incur an academic penalty as a result of the use of these accommodations.

A complaint of noncompliance with these requirements may be filed under the LEA's Uniform Complaint Procedures.



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## **Parenting Students/Excused Absences to Care for a Sick Child**

AB 2289 also amended Education Code section 48205, subsection (a)(6), to allow parenting students to be absent from school to care for a sick child without a doctor's note. (See [Client News Brief Number 91 from December 2018](#).) The mandatory Annual Notice excused absences provision under Education Code section 48205 will need to be revised to include student absences during school hours to care for a sick child for which the school may not require a doctor's note.

## **Coursework and Graduation Requirements for Migratory and Newly Arrived Immigrant Students**

Foster youth, homeless students, former juvenile court school students, and children living in active duty military households are exempted from a number of coursework requirements for graduation. Assembly Bill (AB) 2121 took effect on January 1, 2019 and extends those exemptions to "currently migratory children," which is defined as including children who have recently moved with a parent, guardian or other person having custody, from another state or from one California school district to another in order for the child or a member of the child's immediate family to secure temporary or seasonal employment in an agricultural or fishing activity, as defined below, and whose parents or guardians have been informed of the child's eligibility for migrant education services.

- "Agricultural activity" means any activity directly related to the production or processing of agricultural products and the cultivation or harvesting of trees; and
- "Fishing activity" means any activity directly related to the catching or processing of fish or shellfish for initial commercial sale or as a principal means of personal subsistence.

(Ed. Code § 54441, subd. (c) and (d).)

AB 2121 also extends these exemptions to students in their third or fourth year of high school who are participating in a newcomer program, which is a program designed to meet the academic and transitional needs of newly arrived immigrant students, with the development of English language proficiency as the primary objective. (Ed. Code §§ 51225.1, subd. (a) and 51225.2, subd. (a)(6).) (See [Client News Brief Number 83 from December 2018](#).)

## **Students in Military Families/Residency Retention and Matriculation**

LEAs must permit students of military families to continue to attend their schools of origin, despite changes in residence and changes in military status. AB 2949 added Education Code section 48204.6, which allows a student living in the household of an active duty military service member to continue attending the student's school of origin for the remainder of the school year if the family moves or if the parent or guardian's military service ends during the school year, and allows the student to matriculate with his or her peers in accordance with the established feeder patterns. (See [Client News Brief Number 88 from December 2018](#).)

AB 2949 mirrors the laws related to protecting foster youth and homeless students, who are also susceptible to frequent school changes. This is a mandatory provision pursuant to Education Code section 48980, subsection (g), which requires that the Annual Notice include all options for meeting residency requirements for school attendance.

## **Home, Hospital and Residential Health Facility Instruction for Students with Temporary Disabilities**

AB 2109 amended Education Code sections 48206.3 *et seq.* to require that a student whose temporary disability makes school attendance impossible or inadvisable, receive individual instruction either: (1) at home, provided by the school district in which the student resides; or (2) in a hospital or other residential health facility, excluding state hospitals, provided by the school district in which the hospital or residential health facility is located. (See [Client News Brief Number 3 from January 2019](#).)

The Annual Notice must give parents notice of the availability of this individual instruction and information regarding eligibility for, and the duration of, individual instruction.

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## Access to Student Mental Health Services

AB 2022 added Education Code section 49428, which requires school districts and charter schools to provide students and their parents and guardians with information at least twice per school year regarding how to access student mental health services on campus and/or in the community. This new notice requirement must be implemented beginning in the 2019–2020 school year. Parents and guardians must be given this information in at least two of the following formats: (1) by electronic or hardcopy letter; (2) in the parent handbook distributed at the beginning of the school year; and/or (3) via the school's website or social media page. (See [Client News Brief Number 92 from December 2018](#).)

Students must be given this information in at least two of the following formats: (1) by electronic or hardcopy document or school publication; (2) in the student orientation materials distributed at the beginning of the school year or a student handbook; and/or (3) via the school's website or social media page.

## Student Financial Aid Information

AB 2015 added Education Code section 51225.8 and requires that commencing with the 2020–2021 school year, student financial aid information be provided at least once before students enter 12th grade. This new law gives school district governing boards discretion regarding how they choose to disseminate student financial aid information and while this information could be added to the Annual Notice, we recommend that it be disseminated separately to all eligible students by school counselors.

The information provided must include, but not necessarily be limited to, material related to all of the following:

- The types of documentation and personal information that each student financial aid application requires, including, but not necessarily limited to, documents relating to income taxes, finances and income, college choices, academic status, and personal identification such as social security or taxpayer identification numbers.
- An explanation of definitions used for each application. These definitions may include, but are not necessarily limited to, definitions of "legal guardianship," "household size," "parent," "dependent," and "taxable college grants and scholarships."
- Eligibility requirements for student financial aid that may be applied for using the Free Application for Federal Student Aid (FAFSA) or the California Dream Act Application.
- Application timelines and submission deadlines.
- The importance of submitting applications early, especially when student financial aid is awarded on a first-come, first-served basis.

A paper copy of the FAFSA or the California Dream Act Application must be provided to each student, upon a student's request or upon request by the student's parent or guardian.

Any information shared by parents, guardians, and students related to financial aid eligibility must be handled according to applicable state and federal privacy laws and regulations.

Lozano Smith regularly reviews and updates Annual Notices for LEAs around the state. Such revisions involve either an update to last year's Annual Notice to account for changes in the law within the past year, or a more comprehensive review to covering changes in the law over the past several years and/or changes in an LEA's own policies and practices. If you are interested in any of the annual review services that Lozano Smith provides, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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