

# CLIENT NEWS BRIEF

## New Requirements for Assigning High School Students to Certain Courses

Recent legislation imposes new requirements before school districts can assign high school students to certain courses. Beginning with the 2016-2017 school year, school districts may not assign students in grades 9-12 to "course periods without educational content" without written parent consent and related documentation. Similar requirements apply before a school district may assign students in grades 9-12 to take certain courses for the second time.

Assembly Bill (AB) 1012 was introduced in response to the class action lawsuit (*Cruz v. California*, No. RG-14727139 (Alameda Cnty Super Ct) filed in May 2014 which alleged that students enrolled in certain courses were not receiving meaningful instruction in violation of the California Constitution's guarantee of an equal education opportunity. Some of the courses at issue were entitled "Inside Work Experience," "Service," "Home" and "Teaching Assistant." After AB 1012 was signed by the Governor, the parties settled the lawsuit on November 5, 2015.

Effective January 1, 2016, AB 1012 adds sections 51228.1, 51228.2 and 51228.3 to the Education Code. Section 51228.1 provides that school districts are not allowed to assign students in grades 9-12 to "course periods without educational content" for more than one week in a semester beginning in the 2016-2017 school year without written parent consent and related documentation.

"Course periods without educational content" are defined to include course periods where: 1) a student is released early from school, 2) a student is assigned to a service, instructional work experience or to a course to assist a certificated employee, but is not expected to complete curricular assignments, or 3) where the student is not assigned to any course during the class period. However, section 51228.1 may not be interpreted to limit a district's ability to authorize dual enrollment in community college, to offer independent study, or to provide courses of work-based learning or work experience and similar opportunities.

Education Code section 51228.2 provides that school districts also cannot, without written parent consent and related documentation, enroll students in classes they have previously completed and received a grade which is satisfactory to receive a high school diploma and to attend California public institutions of postsecondary education. There is an exception for courses that have been designed to be taken more than once because students are exposed to a new curriculum year to year and therefore are expected to receive educational value from taking the course again.

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Ruth Mendyk  
Partner  
Fresno Office  
rmendyk@lozanosmith.com



Ameet Nagra  
Associate  
Fresno Office  
anagra@lozanosmith.com

**LS** Lozano Smith  
ATTORNEYS AT LAW

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As noted above, Education Code sections 51228.1 and 51228.2 both allow for a student's enrollment in the specified courses, provided there is written consent from the parent, guardian, educational rights holder, or the student, if he or she is 18 years or older. Both of these sections also require that a school official determine that the student will benefit from being assigned to the particular course and that the principal or assistant principal of the school has stated in writing, for the relevant school year, that no pupils are assigned to the specified courses unless the first two requirements have been met.

Education Code sections 51228.1 and 51228.2 do not apply to students enrolled in an alternative school, a community day school, a continuation high school or an opportunity school.

AB 1012 also adds Education Code section 51228.3, which provides that complaints alleging that a school district has not complied with these new requirements must be considered under the district's Uniform Complaint Procedures, with a right to appeal to the California Department of Education.

The new Education Code sections require the State Superintendent to develop regulations for adoption by the State Board to establish procedures, including the form of the written statements required of the parents and school administrators. The terms of the Cruz settlement provide that, prior to May 15, 2016, the California Department of Education will issue a policy notice to all school districts outlining the requirements of AB 1012 for assigning students to "courses without educational content" and "repeated courses." However, the reality of the school registration schedule will likely require districts to develop protocols in the very near future. Towards that end, Lozano Smith is continuing to work towards clarifying the parameters and outlining the statements required for the upcoming registration season.

For additional information regarding implementing these new registration requirements for the 2016-2017 school year, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).