

CLIENT NEWS BRIEF

New Laws Seek to Improve College Safety

The Governor recently signed three bills addressing campus or student safety at higher education institutions. Senate Bills (SB) 967, regarding sexual assault, and 1400, regarding keeping students who are subject to protective orders out of classes, take effect January 1, 2015. Assembly Bill (AB) 1433, regarding reporting of crimes, took effect immediately upon the Governor's September 29, 2014 signature. Together, the three bills signal heightened attention to issues of student safety at California's colleges.

SB 967: Student Safety – Sexual Assault

According to the authors of this bill, adjudication of sexual assault on college campuses is inconsistent and inadequate. This law, nicknamed the "Yes Means Yes" law, imposes new requirements on the governing bodies of California Community Colleges, the University of California, the California State University, and independent postsecondary institutions (collectively "Higher Education Institutions"). These entities must comply with the new requirements in order to receive state funds for student financial assistance.

The new law adds section 67386 to the Education Code and requires Higher Education Institutions to adopt a sexual assault, domestic violence, dating violence, and stalking policy, which is a condition of receiving state funds for student financial assistance, and includes specified standards regarding how allegations of sexual assault must be evaluated. Most notably, the policy must contain an "affirmative consent standard," which is defined as an "affirmative, conscious, and voluntary agreement to engage in sexual activity."

Higher Education Institutions must adopt "detailed and victim-centered policies and protocols," as specified, which address how the institution will respond to reported sexual assault, domestic violence, dating violence, and stalking incidents. The new law also requires these entities to form alliances, to the extent feasible, with existing on-campus and community-based organizations (e.g. rape-crisis centers) in order to make services available to both victims and the accused. In addition, Higher Education Institutions must implement comprehensive prevention and outreach programs, which address sexual violence, domestic violence, dating violence, and stalking. Such programs shall be included in every incoming student's orientation. Lastly, if the Commission on State Mandates concludes that the bill imposes mandated costs, Higher Education Institutions may be entitled to reimbursement for costs associated with implementing SB 967.

SB 1400: Community Colleges – Protective Orders

Under existing law, upon the expiration of a protective order that keeps a student out of class, a student can re-register at a community college without any review of whether the individual presents a continuing safety threat. SB 1400 amends Education Code section 76030 and provides that if a protective order was issued against a student for good cause to protect a campus or person regularly on a campus, the community college district may require the

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student to apply for reinstatement before the expiration of such order. If the student applies for reinstatement, a review of the application must consider, at a minimum, the gravity of the offense, evidence of subsequent offenses, and likelihood of substantial disruption if reinstated. Upon review, the governing board may approve, deny, or permit conditional reinstatement.

AB 1433: Student Safety

AB 1433 amends section 67380 and adds section 67383 to the Education Code and requires, as a condition for participation in the Cal Grant Program, the governing bodies of California Community Colleges, the University of California, the California State University, and private and independent postsecondary institutions with full time enrollment of more than 6,000 students to adopt written policies and procedures to ensure that reports of certain crimes be forwarded to law enforcement agencies. A report of willful homicide, forcible rape, robbery, assault, sexual assault, or hate crime made by the victims to campus security authority for purposes of notifying the institution or law enforcement must promptly be forwarded to the appropriate law enforcement agency. This requirement applies to crimes occurring both on and off campus. As noted above, these new requirements are already in effect as of September 29, 2014. This means that if the necessary written policies and procedures are not already in effect, they should be adopted as soon as possible.

The new law makes it clear that the report to the appropriate law enforcement agency shall be made without identifying the victim unless the victim, after being informed of his or her rights to have identifying information withheld, consents to being identified. The bill is intended to alleviate the problems of underreporting sexual assaults on campuses and mishandling cases, create a closer relationship between campuses and local law enforcement, improve investigations, outcomes for victims, and community safety.

If you have any questions regarding the implications of these new laws, or would like assistance in complying with the new requirements, including preparation of the necessary written policies, please contact one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).