

# CLIENT NEWS BRIEF

## Legislature Permits Alcoholic Beverages at Certain School Facilities When Students Are Not on Campus

The Legislature recently amended the law to permit the consumption of alcoholic beverages at facilities owned and operated by various educational agencies, including school districts and community college districts. This change provides additional latitude for educational agencies to make their facilities available to community groups and individuals for fundraising and other private events that could provide additional revenue. Permitting the consumption of alcoholic beverages as allowed under this new law, however, may potentially increase exposure to liabilities associated with the consumption of alcohol.

Business and Professions Code section 25608 sets forth the general rule that possessing, consuming, selling or giving alcoholic beverages in or on public school grounds is a misdemeanor. The original law had sixteen different exceptions to the general rule, allowing for the possession, use or acquisition of alcoholic beverages in specific factual circumstances. The new legislation, Assembly Bill (AB) 2073, which becomes effective January 1, 2015, adds another exception that allows alcoholic beverages to be consumed at special events held on school facilities where a license or permit has been acquired and when students are not on the grounds. The new language also expands the definition of "facilities" to include, but not be limited to, office complexes, conference centers, or retreat facilities.

Although at first glance this new provision may appear to be an easy way to allow booster groups and others to serve alcohol on district grounds, when you look at the exception more closely, there are strings attached. For example, in order to qualify under this exception, a user would have to obtain the appropriate state and local permits for the consumption of alcohol on public premises. The exception provides wide latitude regarding the facilities on which alcohol could be consumed. The exception does not appear to be limited only to school facilities, but is explicitly extended to other operated and owned facilities, including retreat centers. Outdoor spaces would also presumably qualify under this exception, although it is not expressly addressed in the law. The language of the statute is vague as to the requirement that students not be present. Unless the event is held at a closed, off-campus facility, there may be some risk. Furthermore, the requirement that students not be present appears to conflict with other more lenient provisions specific to community college districts. To the extent that this language raises such questions it will be important to consult with legal counsel.

Before permitting user groups to consume alcohol on educational agency premises, agencies should consider the potential liability associated with consumption of alcohol on facilities it owns, such as personal injury or property damage. We recommend educational agencies work with legal counsel to revise any existing facilities use agreements and liability waivers to permit the consumption of alcohol. Further, we recommend public agencies consult with their insurance carriers to ensure that existing policies provide necessary coverage.

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