

CALIFORNIA LEGISLATIVE UPDATE FOR PROPERTY & CASUALTY BILLS

September 30, 2014 was the deadline for Governor Brown to sign or veto bills that the California legislature sent to his desk earlier this year. Below are summaries of the bills the Governor signed (and one he vetoed) affecting California schools' property and liability programs.

AB 1271: School Safety Plans: Pupil Mental Health Care

Effective January 1, 2015, this law encourages (but does not require) school district and county office of education health and safety guidelines to include protocols to address the mental health care of pupils who have witnessed a violent act at any time.

AB 1432: Mandated Child Abuse Reporting: School Employees

This law will require local education agencies (LEAs) to ensure that all mandated reporters working for them receive annual training on their duties under child abuse and neglect reporting laws. For more details, see Keenan's Briefing, "AB 1432: Effective January 1, 2015: Required Annual Training of Mandated Reporters."

http://www.keenan.com/news/brief/2014/BRF_201401008_AB1432MandatedReporterTraining_KA.pdf

AB 1442: Pupil Records: Social Media

Effective January 1, 2015, this law requires a school district that gathers and maintains information about a student from social media to notify the student and the student's parents and destroy the information when no longer needed. The law also limits the information that a school district can collect from social media to information that pertains directly to school safety or to student safety. If a district uses a third party to gather and maintain this information, the district's contract with that third party must prohibit it from using the information collected for any purposes other than the contract, prohibit it from selling or sharing the information with anyone other than the district, the pupil and the pupil's parents, and require the third party to destroy the information upon completion of the contract.

AB 1433: Student Safety

This law applies to California postsecondary institutions, including community colleges. It requires a report by a victim of a violent crime, sexual assault, or hate crime received by a campus security authority and made by the victim for purposes of notifying the institution or law enforcement to be disclosed to the appropriate local law enforcement agency without identifying the victim, unless the victim consents to being identified. It also prohibits the naming of an assailant if the victim does not consent to be identified. It requires an institution to adopt such a system to qualify for Cal Grants. AB 1433 became effective upon the Governor's signature on September 29, 2014, as urgency legislation. We will be publishing a more detailed Briefing on this law in the near future.

AB 1455: Pupils: Bullying: Counseling Services

This bill authorizes the superintendent of a school district, the principal or the principal's designee to refer a victim, witness, or other pupil affected by bullying and a pupil who has engaged in an act of bullying, to the school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and participation in a restorative justice program. This law becomes effective on January 1, 2015. The author of this legislation stated that it was needed because existing law is "silent on authorizing schools to provide counseling services to the victims or witnesses. Schools would likely want to avoid any potential liability by providing services not permitted by law."

AB 1634: Occupational Safety and Health: Violations

Effective January 1, 2015 this law will make it more difficult for the Division of Occupational Safety and Health (DOSH) to grant a proposed modification to civil penalties for abatement or credit for abatement for serious workplace safety violations. The law will prohibit proposed modifications or credits unless the employer has abated the violation at the time of initial or subsequent inspection and has submitted a signed statement under penalty of perjury and supporting evidence to prove abatement. The new law will also require the employer to provide supporting evidence of abatement, and provides the statement and evidence must be received within 10 working days after the end of the period fixed for abatement. The law also prohibits the Occupational Safety & Health Appeals Board (OSHAB) from staying a requirement to abate the occupational hazards affirmed by the decision or order unless the employer demonstrates by a preponderance of the evidence that a stay or suspension of abatement will not adversely affect the health and safety of employees. The employer must request a stay or suspension of abatement by filing a written, verified petition with supporting declarations within 10 days after the issuance of the order or decision.

AB 1906: Community College Property: Direct Costs for Use

Effective from January 1, 2015 until January 1, 2020, this law amends the section of the Civil Center Act which allows a community college district to charge a fee for the use of its facility or grounds based on the direct cost for such use. "Direct costs" were previously limited to the "share of the costs of supplies, utilities, janitorial services, services of any other district employees, and salaries paid to community college district employees necessitated by the organization's use of the college facilities and grounds of the district" (Ed. Code, § 82542(c)(1).) This law expands the definition of direct costs to include the share of costs for maintenance, repair, restoration and refurbishment proportional to an entity's use of the college facilities or grounds, and requires the Chancellor of the California Community Colleges to develop regulations to be used by a district in determining specific allowable costs. This follows a similar change which was enacted for school districts in 2013.

Although effective January 1, 2015, the amendment specifically gives the Chancellor of the California Community Colleges until December 31, 2015 to develop and adopt regulations to be used by community college districts in determining the proportionate share and the specific allowable costs to be included as "direct costs" for use of its college facilities or grounds. Governing boards must adopt a policy specifying which activities shall be charged at not-to-exceed "direct costs" and ensure their policies are consistent with these regulations.

AB 1993: Pupils: Bullying

This bill requires the California Department of Education (CDE) to develop an online training module to assist all school staff, school administrators, parents, pupils, and community members in increasing their knowledge of the dynamics of bullying and cyberbullying. The law requires the online training module to include, but not be limited to, identifying an act of bullying or cyberbullying, and implementing strategies to address bullying and cyberbullying.

AB 2053: Employment Discrimination or Harassment: Education

Effective January 1, 2015, this law will require California public employers to provide employee training on the prevention of abusive conduct at work as part of the AB 1825 2-hour annual sexual harassment training. For more details, see Keenan's Briefing, "AB 2053: New Law Requires Supervisor Training Regarding Abusive Conduct."

http://www.keenan.com/news/brief/2014/BRF_201401002_AB2053AbusiveConductTraining_KA.pdf

AB 2073: Alcoholic Beverage Control: Public Schoolhouses

Effective January 1, 2015, this bill creates a new exception in the Alcoholic Beverage Control Act (ABC Act) with respect to the prohibition against the possession, consumption and sale of alcoholic beverages in any public school (K-14) or any grounds thereof. It provides that the prohibition against sale or consumption of alcoholic beverages on the grounds of a public schoolhouse does not apply if the alcoholic beverages are acquired, sold, or consumed pursuant to a special events permit for facilities owned and operated by an educational agency, county office of education, superintendent of schools, school district, or community college district at a time when pupils are not on the grounds.

AB 2127: Interscholastic Sports: Football Practice: Concussions

Enacted earlier this year, and effective January 1, 2015, this bill provides the number and length of full contact practices for football teams of school districts, charter schools, and private schools. It prohibits full contact football practices during the off season and limits the number of full-contact practices teams may hold during preseason and regular season to two (2) per week not to exceed 90 minutes in any single day. It also provides that an athlete suspected of having sustained a concussion or head injury must receive clearance from a medical professional experienced with concussion before going back on the field and requires completion of a graduated return to play protocol under the supervision of a licensed health care provider. See the attached **Keenan Loss Control Bulletin** published earlier this year for more details.

AB 2217: Pupil and Personal Health: AEDs

This bill authorizes a public school to solicit and receive non-state funds to acquire and maintain an automated external defibrillator (AED), if it wishes to acquire one, but it does not require schools to acquire AEDs. It provides that the employees of the school district are not liable for civil damages resulting from certain uses, attempted uses or non uses of an AED. It also exempts a public school or district that is in compliance with AED requirements from civil damage liability.

AB 2560: Teacher Credentialing: Applications: Child Abuse

This bill was also enacted earlier this year. Effective January 1, 2015, it requires the Commission on Teacher Credentialing (CTC), as part of its standards and procedures for the issuance or renewal of teaching or services credentials, to require an applicant to read and attest by signature a statement that the applicant understands the duties imposed on a holder of a teaching credential or a services credential by the Child Abuse and Neglect Reporting Act (CANRA).

SB 924: Damages: Childhood Sexual Abuse: Statute of Limitations (Vetoed)

This bill was vetoed by Governor Brown on September 30, 2014. It would have extended the age by which a victim could bring a civil case for childhood sexual abuse from 26 to 40. If it had become law, this bill would have increased the exposure of many public agencies to liability.

SB 967: Student Safety: Sexual Assault

Effective January 1, 2015, this new law provides that in order to receive state funds for student financial assistance, the governing board of each postsecondary institution in California shall adopt a policy concerning sexual assault, domestic violence, dating violence, and stalking involving a student, both on and off campus. This policy shall include an affirmative consent standard in the determination of whether consent was given by both parties to sexual activity. We will be publishing a more detailed Briefing on this law in the near future.

SB 1266: Pupil Health: Epinephrine Auto-Injectors

Effective January 1, 2015, this bill requires school districts, county offices of education and charter schools to acquire, maintain and provide emergency epinephrine auto injectors to school nurses and trained volunteer personnel. Details on this new law can be found in our Briefing, “SB 1266: Effective January 1, 2015 Required Emergency Epinephrine Auto-Injectors In Schools.”

http://www.keenan.com/news/brief/2014/BRF_20141024_SB1266EpiPensInSchools_KA.pdf

Keenan SafeSchools offers an Epinephrine Auto-Injectors course designed to provide school staff members with a basic understanding of the procedures required to safely administer an epinephrine auto-injector to a student. The information in this course follows general national guidelines regarding the use of epinephrine auto-injectors in schools.

SB 1405: Pesticides: Schoolsites

Effective January 1, 2015, this bill requires, under the Healthy Schools Act of 2000 (HSA), a school designee to post on the schoolsite’s website an integrated pest management plan if certain pesticides are used at a schoolsite. It requires reporting and providing to the Director of Pesticide Regulation a copy of the records of all pesticides used at the schoolsite if specified pesticides are used at a schoolsite. Beginning July 1, 2016, it requires individuals applying pesticides at schoolsites to complete an annual training.

Keenan SafeSchools offers an Integrated Pest Management (IPM) course designed to familiarize school staff members with the principles of an effective IPM program as well as the steps they can take to implement an IPM program in their school.

Please contact your Keenan account representative for questions regarding this *Briefing* or if you require any additional information regarding how these new laws may impact your Property & Casualty programs.

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AB 2127 EFFECTIVE JANUARY 1, 2015 NEW REGULATIONS REGARDING FOOTBALL PRACTICES

On July 21, 2014, California Governor Jerry Brown signed AB 2127 (Chapter 165, Statutes of 2014). This legislation will limit the number of full-contact football practices in hopes of reducing the number of football-related concussions and brain injuries sustained by high school and middle school athletes.

In the past five years reports of concussions and head injuries in youth sports have been on the rise, particularly in the sport of football. Although these injuries and incidents happen at the collegiate and professional levels as well, it is very important that athletes at the 12th grade and lower level are protected due to their young age and still-developing bodies. According to a recent study by the U.S. Center for Disease Control and Prevention (CDC), nearly four million student-athletes suffer head injuries each year nationwide. A study published in May of 2014 in the American Journal of Sports Medicine showed that the concussion rate of high school athletes nearly doubled between 2005 and 2012. The California Interscholastic Federation (CIF), which oversees high school athletics in California, supported the passage of AB 2127.

Effective January 1, 2015, AB 2127 will prohibit full-contact football practices in the off-season. Just as importantly, the bill limits the amount of full-contact practice teams may hold during the pre-season and regular season to two (2) per week and those practices may not exceed 90 minutes in any single day. Camp sessions are considered practices for purposes of this bill. The 90 minute limit only applies to full-speed, full-contact, and game-like sessions. The bill further urges the CIF to develop and adopt rules to implement these new restrictions.

AB 2127 also institutes a graduated, 7-day, medically supervised return-to-play protocol for athletes who have suffered a concussion or head injury. The bill urges the CIF to work in consultation with the American Academy of Pediatrics and the American Medical Society for Sports Medicine to develop and adopt rules and protocols to implement this requirement.

The full text of AB 2127 can be found at the following link:

http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_2101-2150/ab_2127_bill_20140721_chaptered.pdf

Should you have any questions regarding this Bulletin or need any assistance, please contact your Keenan Loss Control Consultant.

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