

AB 2160: NEW LAW DESIGNATES NOON DUTY AIDES AS CLASSIFIED SERVICE AT ALL CA K-12 AND CCD SCHOOLS

On September 18, 2018, Governor Jerry Brown signed into law AB 2160 (Chapter 488, Statutes of 2018), which ends the exemption of part-time playground positions, often referred to as “noon duty aides,” from the classified service at all K-12 and community college districts.

AB 2160 expands the reach of AB 670 (Chapter 582, Statutes of 2017) which, due to a drafting error, applied only to non-merit school districts. AB 2160 was enacted to clarify that all noon duty aides are considered part of the classified service, whether they serve merit or non-merit schools, K-12 schools or community colleges.

Because all noon duty aides are now part of the classified service, they may be entitled to certain employment rights and benefits such as seniority, paid holidays, sick leave rollover, and paid leave time. This seemingly minor change in the Education Code will also impact how noon duty aides receive workers’ compensation benefits if they are injured while working.

Prior to this change in the law, a noon duty aide, injured in the course and scope of employment, would only be entitled to Temporary Total Disability (TTD) which is calculated as 2/3 of the employee’s average weekly wages subject to statutory minimum and maximums. The TTD payments would have been paid directly to the disabled noon duty aide, because the worker was not entitled to the Industrial Accident Leave (IAL) benefits available to injured classified workers under the Education Code. Under those circumstances, the district would not have been responsible for any additional payment to the injured worker on TTD.

With the passage of AB 2160, noon duty aides in all K-12 schools and community colleges may be entitled to IAL under the Education Code if they are injured during the course and scope of their employment. IAL entitles the employee to their full salary for up to 60 calendar days per injury or more, if specified in collective bargaining agreements. As a result of this change, instead of paying the injured worker directly, workers’ compensation TTD will be paid to the district and the district pays the employee’s IAL. This may result in increased costs for school districts, as they pay the difference between the IAL rate (full salary for up to 60 calendar days) and the TTD rate (2/3 of the average weekly wage subject to statutory minimums and maximums).

Because this change was already implemented for non-merit system schools, the passage of AB 2160 will only impact merit schools and community colleges that employ noon duty aides.

Please contact your Keenan Risk Management Analyst for questions regarding this *Briefing*.

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