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Education

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Education

Education; classified employees—layoffs

Education Code § 45308 (amended).

SB 1995 (Greene); 1986 STAT. Ch. 118

Sponsor: Los Angeles Unified School District

Under existing law, classified employees are subject to layoff for lack of work or lack of funds.¹ Existing law requires the layoff order within a class to be determined by the employee's length of service.² Existing law does not preclude the granting of length of service credit for time spent on military leave of absence, unpaid illness leave, or unpaid industrial accident leave.³ Chapter 118 expands existing law by providing that the granting of length of service credit is not precluded for time spent on unpaid maternity leave.⁴

AV

1. CAL. EDUC. CODE § 45308.

2. *Id.* In school districts with an average daily attendance below 400,000, length of service means all hours in paid status, excluding any hours compensated solely on an overtime basis, as provided for in Education Code § 45128. *Id.*

3. *Id.*

4. *Id.* See also *id.* § 45193 (providing for leave of absence for pregnancy).

Education; corporal punishment

Education Code §§ 49000, 49001 (repealed and new).

AB 1617 (Farr); 1986 STAT. Ch. 1069

Sponsor: Parents and Teachers Against Violence in Education

Support: California Association of School Psychologists; California Psychiatric Association; California District of American Academy of Pediatrics; B.F. Skinner-Harvard Professor; Former Assemblywoman Leona Egland

Opposition: Assembly Republican Caucus Staff Analysis; Committee on Moral Concerns; California School Boards Association; Association of California School Administrators

Prior to the enactment of Chapter 1069, the governing board of any school district could adopt rules and regulations authorizing teachers, principals, and other certificated personnel to administer reasonable corporal punishment¹ to pupils, under specified circumstances,² provided the district had the prior written approval of the pupil's parent or guardian.³ Under Chapter 1069, corporal punishment of pupils is prohibited in all public schools, and any rule authorizing the infliction of corporal punishment in a public school is void and unenforceable.⁴ Through the enactment of Chapter 1069, the legislature has declared that since school children are at the most vulnerable and impressionable period of their lives, the safeguards to the integrity and sanctity of their bodies should be at least equal to that afforded other citizens.⁵

JEC

1. Pursuant to Chapter 1069, corporal punishment is defined as the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. CAL. EDUC. CODE § 49001(a). The application of reasonable force will not be construed as corporal punishment if necessary to prevent physical injury or property damage, for purposes of self-defense, or to obtain possession of dangerous objects within the pupil's control. Physical pain caused by athletic competition in which the pupil was voluntarily engaged is not corporal punishment. *Id.*

2. Prior law stated that corporal punishment could be used when such action was deemed an appropriate corrective measure. 1976 Cal. Stat. ch. 1010, sec. 2, at 3595 (enacting CAL. EDUC. CODE § 49000). See *Cottingham v. Sharpless*, 28 Cal. App. 2d 551, 553, 83 P.2d 59, 60 (1938) (a teacher may be subject to dismissal for using corporal punishment on a pupil when there is no reasonable cause for doing so). See also *People v. Curtiss*, 116 Cal. App. Supp. 771, 779, 300 P. 801, 804 (1931) (the test of reasonableness applies both to the punishment of the child in the first instance, and to the question of degree).

3. 1976 Cal. Stat. ch. 1010, sec. 2, at 3595 (enacting CAL. EDUC. CODE § 49000). See *Burton v. Board of Educ.*, 71 Cal. App. 3d 52, 58, 139 Cal. Rptr. 383, 386 (1977) (every parent or guardian in every public school has the right to withhold consent to corporal punishment).

4. *Id.* § 49001(b).

5. *Id.* § 49000.

Education; notification of injurious objects

Education Code § 49334 (new).

SB 1676 (Hart); 1986 STAT. Ch. 469

Sponsor: Author

Support: California Federation of Teachers; County Superintendents of Schools; California Peace Officers Association

Existing law allows a certificated¹ or a classified employee² to confiscate an injurious object³ from any student on school grounds.⁴ If the student presents the injurious object to a certificated or classified employee, the object may be returned at the end of the school day, provided the object may be legally possessed off school grounds.⁵

Chapter 469 allows any school employee to contact a law enforcement agency regarding a student or adult who possesses an injurious object on school grounds.⁶ Chapter 469 also protects such an employee from any civil or administrative proceeding for a violation of any local policy relating to notification of a law enforcement agency.⁷ Chapter 469, however, requires an employee who has notified a law enforcement agency to conform to local procedures after such notification.⁸

PLW

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1. CAL. EDUC. CODE § 44006 (definition of a certificated person).
 2. *Id.* § 45101(a) (definition of classification).
 3. *Id.* § 49330 (injurious object means those objects capable of inflicting substantial bodily damage, which are not necessary for the academic purpose of the pupil).
 4. *Id.* § 49331.
 5. *Id.* § 49333.
 6. *Id.* § 49334.
 7. *Id.*
 8. *Id.*

Education; religious retreats

Education Code § 48205 (amended).

AB 2785 (Condit); 1986 STAT. Ch. 112

Sponsor: First Baptist Church of Modesto

Opposition: American Civil Liberties Union; California Association of Supervisors of Child Welfare and Attendance

Existing law requires all persons between the ages of six and sixteen to attend school on a full-time basis unless attendance is excused.¹ Attendance may be excused for appearing in court, attending employment conferences, observing religious holidays or ceremonies, participating in religious exercises, and receiving religious instruction.² Chapter 112 extends existing law by adding attendance at religious retreats to the list of excused absences.³ Chapter 112, however, limits the amount of absence excused for attending religious retreats to four hours per semester.⁴

PLW

1. CAL. EDUC. CODE § 48200.

2. *Id.* §§ 48205, 46014. Section 46014 contains regulations regarding absences for religious purposes. *Id.* § 46014. Absences for religious exercises or religious instruction are limited to four days per month. *Id.* To obtain an excuse, the pupil's absence must be requested in writing by the parent or guardian and approved by the principal or a designated representative. *Id.* § 48205. The student must be allowed to do missed schoolwork which can be reasonably provided and, upon satisfactory completion, must be given full credit. *Id.* See also *Gordon v. Board of Educ.*, 78 Cal. App. 2d 464, 475, 178 P.2d 488, 495 (1947) (addressing the constitutionality of excusing students from school to receive religious training); 11 Op. Att'y Gen. 184 (1948) (applying establishment clause criteria to California Education Code § 46014). See generally *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1970). To avoid an unconstitutional violation of the establishment clause, a statute must have a secular legislative purpose, its principal or primary effect must be one that neither advances nor inhibits religion, and the statute must not foster an excessive government entanglement with religion. *Id.*

3. CAL. EDUC. CODE § 48205.

4. *Id.* See generally *Gordon*, 78 Cal. App. 2d at 475, 178 P.2d at 495 (referring to the constitutionality of released-time statutes).

Education; student athletes

Education Code §§ 67360, 67361 (new).
 AB 2753 (W. Brown); 1986 STAT. Ch. 902
 Sponsor: Author
 Support: University of California

Under existing law, any person who offers¹ any money, bribe,² or thing of value to a participant³ in a sporting event,⁴ with the intention of affecting the outcome of that event, is guilty of a felony.⁵ Existing law also states that any person who accepts such an offer is subject to the same penalty.⁶ Chapter 902 prohibits anyone from giving or offering⁷ anything of value to a student athlete⁸ or member of the student athlete's immediate family⁹ as an inducement to apply, enroll, or attend a postsecondary school in order to participate in any intercollegiate sporting event.¹⁰ Chapter 902 also prohibits a student athlete or member of a student athlete's immediate family from accepting anything of value for application, enrollment, or attendance at a school or for participation in an intercollegiate sporting event.¹¹ Chapter 902, however, does not prohibit gifts of intercollegiate athletic awards approved or administered by the school, awards given by a student attending the same school as the athlete, or awards given by an immediate family member of the student.¹²

Any person who makes an offer in violation of Chapter 902 is

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1. CAL. PENAL CODE § 337b (includes a promise to give, an actual giving, or an attempt to offer or give).
 2. *Id.* § 7(6) (definition of bribe).
 3. *Id.* § 337b (includes any prospective participant or player).
 4. An exception is made for a wrestling exhibition as defined in California Business and Professions Code § 18607. *Id.*
 5. *Id.* Such an offer or bribe also is considered a felony if the participant does not use best efforts in winning, behaves in such a way as to enable another player or team to win, or limits the margin of victory. Such an offense is punishable by imprisonment, a fine not exceeding \$5000, or both. *Id.*
 6. *Id.* § 337c.
 7. CAL. EDUC. CODE § 67350(a) (applies to gifts, offers, promises to give, and attempts to give).
 8. *Id.* § 67360(c)(2) (definition of student athlete).
 9. *Id.* § 67360(c)(1) (definition of immediate family).
 10. *Id.* § 67360(a). A postsecondary school may make such an offer when the school is acting within its official written policy which is in accordance with the rules and by-laws of the National Collegiate Athletic Association. *Id.* § 67360(b).
 11. *Id.* § 67361(a). The student athlete and the student athlete's immediate family may not solicit for anything of value to have the student athlete apply, enroll, or attend a postsecondary institution. *See id.*
 12. *Id.* § 67360(b).

subject to a civil penalty of up to \$10,000, or 3 times the amount offered, whichever is greater.¹³ Anyone who accepts such an offer is subject to a civil penalty of \$1,000, or an amount equal to what was accepted, whichever is greater.¹⁴

PLW

13. *Id.* § 67360(d).

14. *Id.* § 67361(c). The district attorney is responsible for the enforcement of Chapter 902 against anyone who knows or has reason to know that they have violated Chapter 902. *Id.* §§ 67360(d), 67361(c).