

ALTUS SCHOOLS SOUTHERN CALIFORNIA

DBA – AUDEO CHARTER SCHOOL II ▪ AUDEO CHARTER SCHOOL III ▪ AUDEO VALLEY CHARTER SCHOOL
GROSSMONT SECONDARY SCHOOL ▪ MIRUS SECONDARY SCHOOL ▪ SWEETWATER SECONDARY SCHOOL

(A California Non-Profit Public Benefit Corporation)

Wayland Myers – Chairman

Chris Gordon - Member, Jim Herr – Member, Cristina Stevens - Member

BOARD OF DIRECTORS WORKSHOP TRAINING

Monday, November 13, 2023, 10:30 a.m.

Via Teleconference at

514 Via De La Valle, Suite 303, Solana Beach, CA 92075, 9655 Granite Ridge Road, Suite 100, San Diego, 92123,
4179 Middlesex Drive, San Diego, CA 92116, 15548 Firerock Lane, Moreno Valley, CA 92555

Access to the live video conference will be accessible prior to the start of the meeting at

Audeo II: <https://audeo2.com/board-and-governance/>

Audeo III: <https://audeo3.com/board-and-governance/>

Audeo Valley: <https://audeovalley.com/board-and-governance/>

Mirus: <https://miruscharter.com/board-of-directors/>

GSS: <https://grossmontsecondarycharter.com/board-and-governance/>

SSS: <https://sweetwatersecondarycharter.com/board-and-governance/>

This agenda contains a brief, general description of each item to be considered.

Except as otherwise provided by law, no action shall be taken on any item not appearing in the following agenda.

1.0 OPEN SESSION

- 1.1 Call to Order
- 1.2 Roll Call
- 1.3 Establishment of Quorum
- 1.4 Pledge of Allegiance
- 1.5 Approval of Agenda **P.1-2**

2.0 PUBLIC COMMENT

Public comments for items of interest to the public and within the scope of the Altus Schools Southern California Board (non-agenda) shall be no longer than two (2) minutes. Public comment for agenda items shall be no longer than three (3) minutes. Speakers may not yield their time. In meetings held over Zoom, any person who wishes to make a comment on either non-agenda or agenda items shall use the “Raise Hand” feature of Zoom to notify the Board. In accordance with the Brown Act, no discussion or action may occur at this time, but it is the Board’s prerogative to respond or give direction to staff. All public comment will be heard at this point in the agenda as ordered below. Each agenda item being commented on will have a maximum of 20 minutes allotted and each non-agenda item will have a maximum of 10 minutes allotted. If necessary, the Board Chair may equivalently decrease the time for each speaker in order to stay within the allotted maximum.

- 2.1 Non-agenda Public Comment
- 2.2 Agenda Items Public Comment

3.0 PART II BOARD WORKSHOP/TRAINING **P. 3 - 72**

Young, Minney & Corr Law Firm will provide comprehensive professional development training to the Board on Best Practices in Charter Schools Board Management including Fiduciary Duties and Fiscal Oversight; the Brown Act and Conflict of Interest Laws; and Critical Case Updates and new Laws Affecting Charter Schools.

4.0 BOARD COMMENTS AND ANNOUNCEMENTS

From time to time, the Board has topics of interest that they would like to share with the community. These are informational in nature and do not require action.

5.0 ADJOURNMENT

Next Regular Board Meeting: December 7, 2023, 1:00 p.m.

Meeting Agenda available at:

www.audeo2.com, audeo3.com, audeovalley.com, grossmontsecondarycharter.com, miruscharter.com, sweetwatersecondarycharter.com

Accommodation –Altus Schools Southern California Board does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities. Allison Fleck, has been designated to receive requests for disability-related modifications or accommodations in order to enable individuals with disabilities to participate in open and public meetings. Please notify Allison Fleck at (858) 678-2050 twenty-four (24) hours or more prior to disability accommodation being needed in order to participate in the meeting. Translation services are available by notifying Hayley Beaupre at (858) 678-3908 twenty-four (24) hours or more prior to the board meeting. In compliance with Government Code Section 54957.5, non-exempt writings that are distributed to a majority or all of the board in advance of a meeting may be viewed at 3252 Bonita Road, Chula Vista, CA 91910; or at the scheduled meeting. In addition, if you would like a copy of any record related to an item on the agenda, please contact Allison Fleck at (858) 678 -2050.

Certification of Posting

I, Angela Neri, hereby certify that I posted this agenda at the Altus Schools Southern California Resource Centers and Offices noted above, and on the Audeo Charter School II, Audeo Charter School III, Audeo Valley Charter School, Grossmont Secondary School, Mirus Secondary School, and Sweetwater Secondary School webpages on Wednesday, November 8, 2023.

ALTUS SCHOOLS COMPREHENSIVE BOARD TRAINING



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DISCLAIMER

- 1 This training cannot substitute for personalized legal advice.
- 2 Our advice is based upon the latest available guidance which is subject to change in this ever-evolving landscape.
- 3 After the training there will be a Q&A.

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YM&C FIRM MISSION

- 1 We champion outstanding choices in education for all students.
- 2 We believe a quality public education is a civil right.
- 3 We work and fight alongside you to ensure student needs are always put first.

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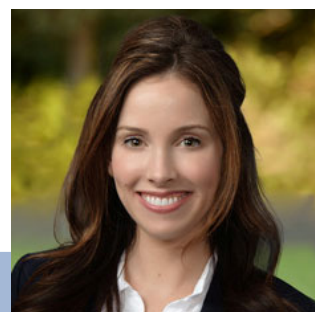
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PRESENTERS:



PAUL MINNEY, ESQ.

Partner/Founder



KAELA HAYDU, ESQ.



Senior Counsel

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TRAINING AGENDA

1. Understanding the Brown Act
2. Understanding Conflict of Interest
3. Board Best Practices
4. New Laws and Critical Case Updates



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UNDERSTANDING THE BROWN ACT

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THE 6 QUESTIONS

1. What is the purpose of the Act?
2. What constitutes a meeting?
3. What are the meeting notice & agenda requirements?
4. What are the public's rights at meetings?
5. What are the permissible closed sessions?
6. What are the penalties & remedies for violating the Act?



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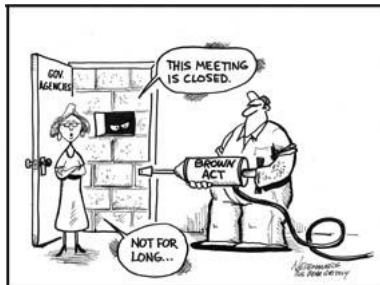
QUESTION #1
What is the Purpose of the Act?

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WHAT IS THE PURPOSE OF THE ACT?

A. To Foster Broad Public Access



“... The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

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PUBLIC ACCESS IS NOT ABSOLUTE

The Act Allows For Limited Confidentiality, But Closed Sessions Must Be Statutorily Authorized as Follows:

- Personnel matters
- Labor negotiations
- Real property negotiations
- Receiving legal advice from School’s attorney
- Public security
- Pupil discipline

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ACCOMPLISH ITS PURPOSE

How Does the Brown Act Accomplish Its Purpose?

- Public is given notice of meetings
 - Agenda posting requirements
- Meetings must be open to the public
 - Confidentiality is limited
 - Closed sessions must be statutorily authorized
- Transparency does not mean chaos
 - Meetings are held in public, not controlled by the public.
- Charter School can set more stringent requirements that foster greater access and participation (e.g., longer posting periods), but Charter School cannot do less than the law requires. Check charter, Bylaws and MOUs to see if your requirements are more stringent.

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QUESTION #2

What Constitutes a Board Meeting?

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WHAT CONSTITUTES A BOARD MEETING?

Basic Definition:

A meeting occurs when any congregation of a majority of the members of the body meet to hear, discuss, deliberate, or take action on any item of School business.

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WHAT ARE THE BASIC EXCEPTIONS?

Exceptions to Definition of Meeting:

- Attendance by majority at public conferences of general interest
- Attendance of majority at other body's public meeting
- Attendance of majority at purely social or ceremonial gatherings

SO LONG AS SCHOOL BUSINESS IS NOT DISCUSSED!

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WHAT ABOUT COMMITTEES?

As a general rule, all committees must follow the Brown Act

Committees

- Permanent or temporary
- Decision-making or advisory
- Created by charter, ordinance, resolution, or a Board's formal action

WHAT ABOUT COMMITTEES?

A standing committee must comply with the Brown Act even if it is an advisory committee composed solely of the members of the Board who are less than a quorum.

Standing Committees

- A committee is a standing committee if it:
 - Has continuing subject matter jurisdiction; or
 - Has a meeting schedule fixed by charter, ordinance, resolution, or a Board's formal action
- Brown Act applies regardless of whether the standing committee is:
 - Composed solely of Board members or not
 - Less than a quorum of Board members or not
- Examples: Budget Committee; Facilities Committee; etc.

WHAT ABOUT COMMITTEES?

Non- Brown Act Committees

There is one exception for certain advisory committees that are not subject to the Brown Act. The advisory committee must be composed solely of the members of the Board that are less than a quorum, and must not be a standing committee.

A committee is not subject to the Brown Act if:

- It is advisory, not decision-making;
- It is composed solely of the members of the Board;
- The committee must be less than a quorum of the Board; and
- The committee must not be a standing committee.

WHEN DOES A “SERIAL” MEETING OCCUR?

Serial Meetings Are Prohibited

- A majority of the Board members
- Outside a meeting
- Use a series of communications of any kind, directly or through intermediaries
- To discuss, deliberate, or take action on
- Any item of School business that is within the subject matter jurisdiction of the body

ADDITIONAL LIMITS ON BOARD COMMUNICATIONS

Limit On Unilateral Communications

While an employee or official may engage in separate conversations or communications outside of a meeting with other members of the Board in order to answer questions or provide information regarding a matter of Charter School business, that person may not communicate to members of the Board the comments or position of any other member or members of the Board.

STANDARD TELECONFERENCE MEETING RULES

Six Additional Requirements:

1. Agenda must be posted at all teleconference locations.
2. Each teleconference location must be identified in the notice and agenda of the meeting.
3. All votes taken must be by roll call.
4. Each teleconference location must be accessible to the public. (ADA-compliance required.)
5. Members of the public must be able to hear and must have the right to address the Board directly from each teleconference location.
6. A quorum of the Board must participate from within the school's "jurisdiction."

NEW LAW! AB 2449**Effective January 1, 2023**

- Amends the Brown Act teleconferencing rules to allow relaxed teleconferencing requirements for members' **personal emergencies** and **for just cause**
- Allows teleconferencing without any obligation to
 - Identify the teleconferencing location on the agenda
 - Allow public access to the teleconferencing location
- Member must participate through both audio and visual technology

NEW LAW! AB 2449

“Emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person.

“Just cause” means any of the following:

- A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.
- A contagious illness that prevents a member from attending in person.
- A need related to a physical or mental disability as defined in law and not otherwise accommodated
- Travel while on official business of the governing board or another state or local agency

NEW LAW! AB 2449**Teleconferencing based on an **emergency** requires that:**

- The member shall make a request to participate remotely as soon as possible.
- The member must make a separate request for each meeting in which they seek to participate remotely.
- If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the Board may take action at the beginning of the meeting.

NEW LAW! AB 2449

- Just cause limited to twice per calendar year
- Member must request emergency circumstances and Board must vote to approve (limited agenda description)
- Under no circumstances can a member participate in meetings solely by videoconference from a remote location for a period of more than:
 - three consecutive months;
 - 20 percent of the regular meetings within a calendar year; or
 - more than two meetings if the Board regularly meets fewer than 10 times per calendar year.

NEW LAW! AB 2449**Other Requirements:**

- At least a quorum of members must participate in person from a singular physical location clearly identified on the agenda and which is open to the public and situated within the local agency's jurisdiction.
- Members of the public must be provided a means to “remotely hear and visually observe the meeting, and remotely address” the governing board,” i.e., a two-way audiovisual platform or a two-way telephonic service and a live webcasting of the meeting.

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NEW LAW! AB 2449

- Agenda must provide notice of how members of the public can access the meeting and provide public comment. Cannot require public comments to be submitted in advance.
- If the broadcast is disrupted, the board may not take action until remote access to the meeting is restored
- The member shall publicly disclose before any action is taken, if any individuals 18 years of age or older are present in the room at the remote location, and the general nature of the member’s relationship with any such individuals.

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JUST CHAPTERED: AB 557

- With State of Emergency having expired in Feb. 2023, boards have begun to feel the impact of the transition back to in-person meetings; some have reported issues with membership retention.
- As a direct result, we saw many bills this legislative session designed to increase teleconferencing flexibility.
- AB 557 (Chaptered October 8, 2023) – Eliminates sunset date for allowing local agencies to use teleconferencing without complying with traditional teleconferencing requirements during a proclaimed state of emergency.

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QUESTION #3

What are the Meeting Notice & Agenda Requirements?

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WHAT ARE THE MEETING NOTICE & AGENDA REQUIREMENTS?

Golden Rule:

With Limited Exceptions: If it is not on the agenda, the Board may not discuss the matter.

Technical Rule:

The agenda shall be posted properly in advance of a meeting and must include a brief description of items to be transacted or discussed.

WHAT ARE THE LIMITED EXCEPTIONS WHEN THE BOARD CAN “DISCUSS” A NON-AGENDA ITEM?

1. Rarely Authorized Emergency Situations:

- Upon a determination by a majority vote of the Board that an “emergency” or “dire emergency” exists (54956.5) – EXTREMELY RARE

2. Continued Matters:

The agenda item was posted for a prior meeting of the Board that:

- Occurred not more than 5 calendar days prior to the date action was taken on the item; and
- At the prior meeting the item was continued to the meeting at which action is taken.

EXCEPTIONS TO DISCUSSING A MATTER NOT ON THE AGENDA (CONT'D)

3. Direction to Staff
4. Brief Responses/Clarifying Questions/ Announcements
5. Identification of Future Agenda Items

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DISCUSSION POINT: BOARD INTERACTION WITH PUBLIC ON AGENDA ITEMS

- The Board may briefly interact with the public on agenda items beyond receiving input.
- Significant Board interaction with public during comment period is not a best practice.

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DISCUSSION POINT: BOARD INTERACTION WITH PUBLIC ON AGENDA ITEMS

- Possible risks attendant to extensive interaction with public during comment period:
 - Risk of discussion of topics not on the agenda.
 - Risk of inefficient/chaotic/long meetings.
 - Risk of creating Board indecision.
 - Risk of violations of Board policies on complaints.
 - Risk of violation of due process.

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WHAT ARE THE AGENDA POSTING REQUIREMENTS?

Posting Requirements Vary According To The Type of Meeting:

1. Regular meetings – Agenda posted 72 hours in advance
2. Special meetings – Agenda posted 24 hours in advance
3. Emergency meetings – at least 1 hour (exceptionally rare – think dire emergencies – crippling disaster, mass destruction, terrorist activity, activity that severely impairs public health, safety, or both)

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WHERE MUST THE AGENDA BE POSTED?

1. Physically posted in publicly accessible location for entire posting period within jurisdiction, including teleconference locations and all school sites / resource centers, if applicable.
2. If a Charter School maintains a website, agenda must be posted on website.
3. On the website homepage with a “prominent, direct link” current agenda appears at top; agenda must be downloadable and searchable; free access.

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CLOSED SESSION AGENDAS: HOW MUST CLOSED SESSION ITEMS BE AGENDIZED & PROCESSED?

1. Safe harbor language should be utilized to protect the school from challenges as to form.
2. Board chair must provide oral notice in advance of closed session.
3. Board must make public report of reportable action taken in closed session and roll call vote or abstention of every member, if any.

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A NOTE ON EXECUTIVE COMPENSATION

Executive Compensation

- Approval of CEO/Executive Director/Department Head (if compensation/employment agreement is brought to the Board) compensation must occur at a regular (not special) meeting
- Govt. Code 54953: Prior to final action, Board must orally report a summary of the recommendation for final action, including the salary, salary schedule, and fringe benefits, during the open meeting where final action will be taken.
- Final action in open session

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QUESTION #4

What are the Public's Rights at Meetings?

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WHAT ARE THE PUBLIC'S RIGHTS?

1. Public testimony
 - ✓ Addressing disruptive speakers?
2. Taping or broadcasting
3. No conditions of attendance
4. Non-discriminatory facilities
5. Copies of agendas and other public writings
6. Must provide double the time for public testimony to persons utilizing an interpreter to ensure equal opportunity

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NEW LAW! SB 1100

Effective on January 1, 2023

- Adds a new section to the Brown Act authorizing the Board Chair or designee to remove, or cause the removal of, an individual for disrupting the meeting.

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NEW LAW! SB 1100

“Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and **includes, but is not limited to**, one of the following:

- A. A failure to comply with reasonable and lawful regulations or policies adopted by a legislative body related to public comment, or any other law.
- B. Engaging in behavior that constitutes use of force or a true threat of force.

NEW LAW! SB 1100

- Before removing an individual, the presiding member or their designee must warn the individual that their behavior is:
 - 1. Disrupting the meeting; and
 - 2. That their failure to cease their behavior may result in their removal.
- The presiding member or their designee may then remove the individual if they do not promptly cease their disruptive behavior.
- **Caution: call the police rather than doing this yourself.**

NEW LAW! SB 1100

- The warning requirement does not apply to behavior constituting a **“true threat of force.”**
- A **“true threat of force”** means “a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.”

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QUESTION #5

What are the Permissible Closed Sessions?

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WHAT ARE THE PERMISSIBLE CLOSED SESSIONS?

Authorized Closed Sessions Include the following:

- Personnel
 - 24 hour written notice to employee if complaints and/or charges will be heard.
- Real Estate Negotiations
- Labor Negotiations
- Conference With Legal Counsel
- Public Security Issues
- Pupil Discipline

WHAT HAPPENS IN CLOSED SESSION. . .

Confidentiality Requirement:

No Board member, staff member or invitee may disclose information from closed session without the authorization of the Board.



QUESTION #6

What are the Penalties & Remedies for Violating the Act?

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WHAT ARE THE PENALTIES & REMEDIES FOR VIOLATING THE ACT?

1. Civil remedies:

- Board action may be declared null and void
- Injunctive relief may be obtained
- Prevailing plaintiff awarded attorneys' fees

2. Criminal penalties apply if one or more Board members intend to deprive the public of information to which the member knows or has reason to know the public is entitled.

3. Potential charter revocation

4. Stakeholder trust harmed

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NOTICE & DEMAND FOR CURE PROCESS

Notice and Demand for Cure Notes:

1. Generally, written demand for alleged open session violations must be made within 30 days.
2. Otherwise, demand must be made within 90 days.
3. Board must cure within 30 days or notify the demanding party that it will not cure.
4. Demanding party can initiate litigation to compel compliance and if successful, may be awarded attorneys fees and court costs.



UNDERSTANDING CONFLICT OF INTEREST LAWS

CONFLICTS OF INTEREST

Broad Definition

- A *conflict of interest* arises when an individual who has a private financial interest in the outcome of a corporate contract or a public decision, participates in the decision-making process or influences or attempts to influence others making the contract or decision.
- In short, a conflict of interest is a clash between an individual's duty to his or her office and his or her personal interests.

FINANCIAL INTERESTS

Common Types of Financial Interests Regulated by Conflict Laws

- Ownership or investment in business entity
- Investment in real property
- Source of income
- Source of gifts
- Effect on personal finances
 - Financial interests of immediate family members of Board Members and employees typically are covered.



GOVERNMENT CODE SECTION 1090

Elements

1. Public official (officer, board member, or employee)
2. Making a public contract (for sale or purchase)
3. Public official has a financial interest in the contract

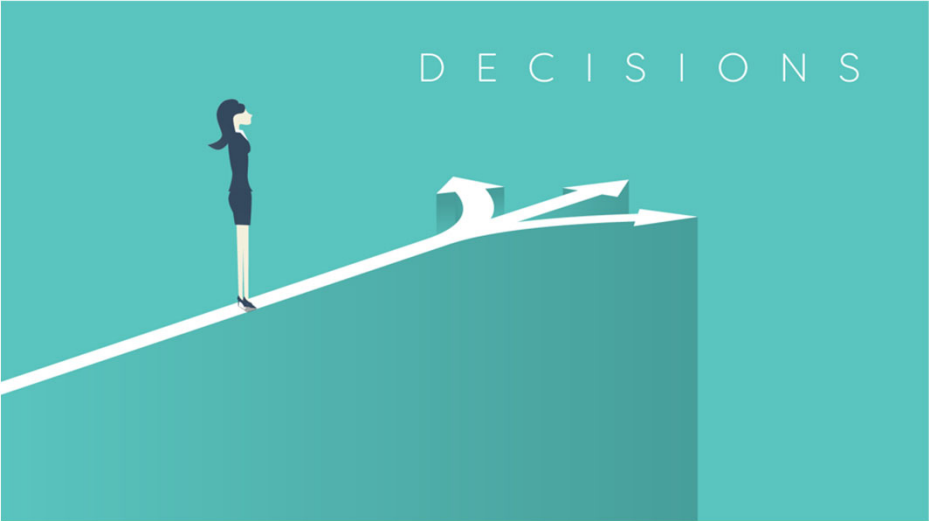
GOVERNMENT CODE SECTION 1090

What you need to know about Section 1090

- If board member has financial interest, the entire board is prohibited from entering into the contract; even if it is with the best vendor at the best price and the interested board member abstains. (Unless an exception applies.)
- Making a public contract is defined very broadly! Applies to earliest discussions, planning, solicitation for bids, etc., not just vote.
- Thus, this statute is, in most respects, the toughest standard to meet.
- Violation of GC 1090 is a felony and the contract void!

POLITICAL REFORM ACT

DECISIONS

An illustration on a teal background shows a woman in a black dress standing on a white path that leads to a fork in the road. Two white arrows point in opposite directions from the fork. The word "DECISIONS" is written in white capital letters above the path. The YM&C logo is in the bottom left corner, and the number 55 is in the bottom right corner.

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POLITICAL REFORM ACT

Big Picture

1. Public official
2. Participating in or attempting to influence a governmental decision
3. Public official has qualifying financial interest (Includes spouse and children)
4. Financial interest is material

**The Official Must Recuse Him or Herself from
All Parts of the Decision-Making Process**

- Lots of very detailed regulations have also been adopted by FPPC

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COI CODE

Conflict of Interest Code

- States who must file the Form 700
- Assigns disclosure categories



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FORM 700

Form 700

- Statement of Economic Interests
- When it must be filed:
 - Assuming or reappointment to office or position (within 30 days)
 - Once annually (by April 1st)
 - Leaving office or position (within 30 days)
- Penalties for failure to file:
 - Criminal charges by Atty General or District Atty for deliberate failure to file
 - Civil or administrative action by FPPC or private citizen

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POLITICAL REFORM ACT

“Financial Interest” for Form 700

- Investment in business entity of \$2,000 or more
- Real property investment of \$2,000 or more
- Income of \$500 or more
- Business position in entity
- Gift of \$50 or more



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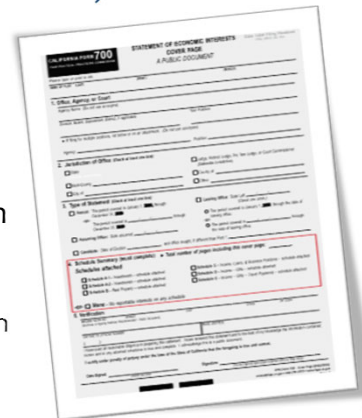
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FORM 700

Check the Conflict-of-Interest Code to Determine What You Must Report (Board members: broad disclosure).

- Typically, All Financial Interests
 - Not Your Residence
 - Not Income from a Public Agency
 - Half of Your Spouse’s Income
 - Financial Interest within Your Jurisdiction
 - Property – within 2 miles of jurisdiction
 - Investments/Business in jurisdiction
 - Gifts – all gifts inside or outside of jurisdiction



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FORM 700

Gifts

- General rule is that you cannot accept more than \$590 from one source in a calendar year. (Increased gift limit effective January 1, 2023)
 - General rule is that gifts worth more than \$50 must be reported (one gift or aggregate gifts from same source in a calendar year).
1. Many exceptions to both general rules, the most common being:
 - Special Occasions – Birthdays, Holidays:
 - Can be gifts from anyone (other than lobbyists) if the gift giving and taking is proportional.
 2. Inheritance

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FORM 700

Gift (cont.)

3. Family Members:
 - Spouse (or former spouse), child, parent, grandparent, great grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, great aunt, uncle, great uncle, niece, great niece, nephew, great nephew, first cousin, or first cousin once removed, or the spouse of any such person. (other than a lobbyist)
4. “BFF’s”- Long-term friendships:
 - Friends for a “period of time” and gift giving and taking must be proportional. (other than a lobbyist)
5. Dating – “bona fide” relationship (other than a lobbyist)
 - Returning or Donating Gifts vs. Reporting

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COMMON LAW ON CONFLICTS-OF-INTEREST

Prohibition Against Conflicts of Interest

- Public official engaging in transaction or influencing decision.
- Creating an appearance of impropriety (financial interest not necessarily required)

Doctrine of Incompatible Offices

- Public official holding two public offices simultaneously
- Offices are incompatible with each other (creating divided loyalties); overlapping jurisdictions

NEW LAW! AB 2158

- Existing law has required members and certain employees of cities and counties to engage in **two hours of ethics training** “relevant” to their public service” **every two years.**
- AB 2158 adds charter schools to the list of **local agencies** subject to the biennial training requirement and extends the training obligation to members of charter school boards.
- Signed by the Governor on September 13, 2022, effective January 1, 2023; subject to a ramp-up period for full compliance by January 1, 2026.

NEW LAW! AB 2158

“Ethics laws” include, but are not limited to, the following:

1. Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
2. Laws relating to claiming perquisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.

NEW LAW! AB 2158

Requirements

- The Fair Political Practices Committee and the Attorney General must be “consulted” in connection with the development of course materials.
- Charter schools must provide their officials with information on how they can meet the training requirements at least once annually.
- Charter schools must maintain records for at least five years after the training was provided indicating:
 - The dates that officials satisfied the training requirements; and
 - The entit(ies) that provided the training.

NEW LAW! AB 2158

Applicability

- Not applicable to board members whose terms will expire before January 1, 2026.
- All other board members seated as of January 1, 2025 must receive the required training by January 1, 2026 and retrain at least once every two years thereafter.

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ROLES AND RESPONSIBILITIES OF THE BOARD AND THE ADMINISTRATION

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AN EXCELLENT BOARD...

1. Understands its roles and responsibilities
2. Governs instead of manages
3. Contributes to a positive school culture
4. Acts as a single unit and speaks with one voice
5. Maintains fiduciary duties
6. Responds appropriately to complaints
7. Regularly educates itself
8. Monitors student performance, finances, and safety
9. Evaluates the school leader and itself
10. Regularly engages in strategic planning

DEFINING ROLES (EXAMPLES ONLY)

Board	School Leader
Hire, supervise, evaluate, discipline, and dismiss the Executive Director of the Charter School	Supervise and evaluate teachers and staff
Approve and monitor the implementation of general policies of the Charter School	Oversee school finances to ensure financial stability
Approve and monitor the Charter School's annual budget and budget revisions	Ensure compliance with all applicable state and federal laws and help secure local grants
Contract with an external independent auditor to produce an annual financial audit	Take responsible steps to secure full and regular attendance at school of the students enrolled in accordance with established policies
Regularly measure progress of both student and staff performance	Identify the staffing needs of the Charter School and offer staff development as needed
Engage in ongoing strategic planning	Develop the school annual performance report, the SARC, and the LCAP
Approve the school calendar and schedule of Board meetings	Establish and maintain a system to handle organizational tasks such as student records, teacher records, teacher credentialing information, contemporaneous attendance logs, purchasing, budgets, and timetables

GOVERNANCE, NOT MANAGEMENT

- Team ownership v. Coach
- Create strategy, framework
- Establish goals and policies
- “How will” vs. “How well”
- Not day-to-day management and implementation decisions
- Not directing individual employees

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FIDUCIARY DUTIES: DEFINED

- A **fiduciary duty** is an obligation to act in the best interest of another party.
- Directors of a nonprofit public benefit corporation have a fiduciary relationship to the non-profit corporation and owe fiduciary duties to the corporation they serve, as well as to the general public.

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FIDUCIARY DUTIES: DUTY OF CARE

California Corporations Code Section 5231(a)

“A director shall perform the duties of a director . . . **in good faith**, in a manner such director **believes to be in the best interests of the corporation**, and with such **care**, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.”

STANDARD OF CARE FOR A NONPROFIT BOARD MEMBER:

- Act with care, skill, prudence and diligence
- Under the circumstances
- Of a prudent person acting in a like capacity
- With familiarity with those matters, and
- Considering the background and experience of the individual

FIDUCIARY DUTIES: DUTY OF CARE

Be informed, stay informed and be proactive in your role.

- Ask questions to seek clarity before voting.
- Listen to all perspectives and test your understanding of information and implications.
- “Own your decision”
- Board members should not get involved with day-to-day business operations of the school

FIDUCIARY DUTIES: DUTY OF CARE

Examples:

- Considering carefully whether a contract for a charter school is necessary and reasonably priced.
- Reading a charter school’s financial documents carefully.
- Monitoring a charter school’s progress towards its goals.

FIDUCIARY DUTIES: DUTY OF INQUIRY

- Directors cannot close their eyes to the activities of the organization.
- If put on notice by the **presence of suspicious circumstances**, directors may be required to make such reasonable inquiry as an ordinarily prudent person would make under similar circumstances.


FIDUCIARY DUTIES: DUTY OF LOYALTY

California Corporations Code Section 5231


- Directors must act in a manner that they believe to be in the best interest of the corporation, i.e., not the interests of another entity or person.
- The duty of loyalty is associated with a director's duty to **avoid conflicts of interest** – split loyalties – between the corporation and external or personal interests.

FIDUCIARY DUTIES: DUTY OF LOYALTY


Avoiding Conflicts of Interest




Conflict of Interest
Code & Policy



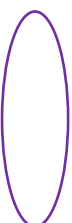
Government Code
Section 1090




Political
Reform Act




Corporations
Code



Regulations



Common
Law



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FIDUCIARY DUTIES: DUTY OF LOYALTY

Avoiding Conflicts of Interest

Principle: “public officials should perform their duties in an impartial manner, free from bias caused by their own financial interests...”
(Political Reform Act)

General Rule: Public officials are disqualified from participating in decisions in which they may have a financial interest (and a personal interest in the matter).

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FIDUCIARY DUTIES: RELIANCE ON PROFESSIONALS

California Corporations Code Section 5231(b)

In performing the duties of a director, a director **shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:**

1. **One or more officers or employees of the corporation whom the director believes to be reliable and competent** in the matters presented;
2. **Counsel, independent accountants** or other persons as to matters which the director believes to be within that person's professional or expert competence; or
3. **A committee** upon which the director does not serve that is composed exclusively of any or any combination of directors, persons described in paragraph (1), or persons described in paragraph (2), as to matters within the committee's designated authority, **which committee the director believes to merit confidence**, so long as, in any case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause that reliance to be unwarranted.



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FIDUCIARY DUTIES: PROTECTION FROM PERSONAL LIABILITY

California Corporations Code Section 5231

“[A] person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge the person’s obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which a corporation, or assets held by it, are dedicated.”



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ROLES AND RESPONSIBILITIES OF BOARD AND MANAGEMENT

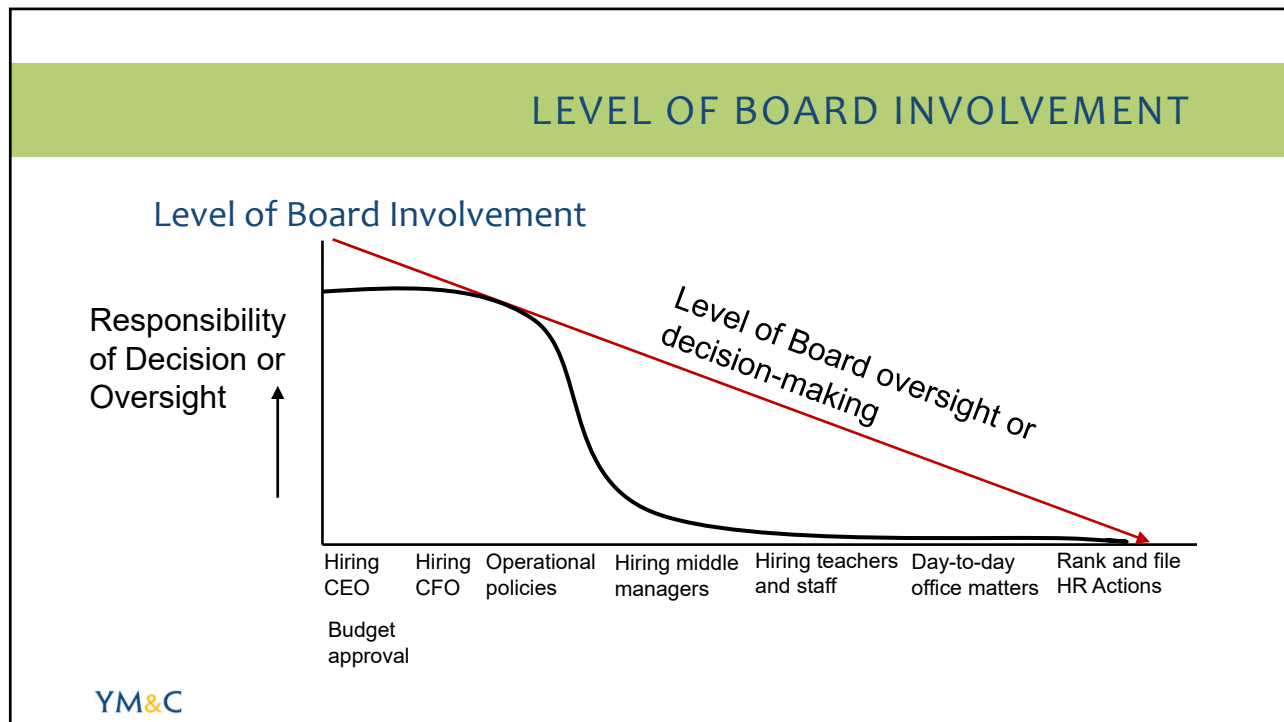
Independent charter schools are run by nonprofit corporations:

- Board of Directors is the governing body with legal responsibility for the charter school(s).
- Typically, the Board is responsible for providing fiscal accountability by approving and monitoring the budget.

ROLES AND RESPONSIBILITIES OF BOARD AND MANAGEMENT

Board ensures long-term viability of the organization

- Ultimately responsible for how the schools are doing
- Board members have a duty to support the overall health and performance of the charter
- Board monitors school performance and other data to inform its decisions
- Board hires, compensates, and evaluates CEO



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BOARD MEMBER EXPOSURE TO PERSONAL LIABILITY?

- There is broad nonprofit law immunity for volunteer board members for board decisions
 - Schools engaged in tax-exempt bond financing may have additional disclosure obligations under federal securities law
- D&O insurance to defend claims against board members acting within scope of duties

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BOARD MEMBERS SHOULD AVOID:

- Acting outside course and scope of duties (such as managing rank-and-file employees, rather than policy-making)
- Breaching duty of care or duty of loyalty
- Conflicts of interests
- Intentional or willful misconduct (e.g., violating the law)

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**DUTY OF FINANCIAL
OVERSIGHT**

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CHARTER SCHOOL FINANCES

- Annual budget is blueprint for school year, setting spending priorities and goals
 - Board monitors annual budget and finances throughout year
- Understand budget, balance sheets, cash flow/position, etc.
 - Staff provider should provide tutorial to new board members
- Review financial reports presented to the Board, such as balance sheet, income statement, cash flow

BOARD MUST ENSURE ADHERENCE TO FISCAL POLICIES AND SOUND FINANCIAL MANAGEMENT

- Lots of talk about charter (mis)management of finances
 - Emphasizes how important this topic is
- Your authorizer will likely seek background information about your board members to help ensure they have sufficient “capacity” to manage finances of the school
- Scrutiny of and adherence to sound financial policies is the norm

DUTY OF FINANCIAL OVERSIGHT

- Potential for charter revocation due to failure to meet GAAP, or “fiscal mismanagement.”
 - Ed. Code, § 47607(c)(1)(C)
- Chartering authority to assess and monitor fiscal condition of charter school.
 - Ed. Code, §§ 47604.32(d) & 47604.33(b)
- Periodic financial reports are required.
 - Ed. Code, § 47604.33(a)
- Annual, independent financial audits are required.
 - Ed. Code, § 47605(m)

CHARTER SCHOOL FINANCES -- AUDITS

- Required annually.
- Validates the schools’ reported finances.
- Also used to validate the charter schools’ internal controls.
- Board must approve Audit Agreement in Spring of each year.
- Board must approve the audit prior to submittal to oversight agencies.



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BUDGET TRAILER BILLS OVERVIEW (SB 114 & SB 141)

SB 114 - Charter Term Extensions

SB 114, effective **July 10, 2023**, extended charter terms by an additional year.

Education Code §47607.4: “. . . all charter schools whose term expires on or between January 1, 2024, and June 30, 2027, inclusive, shall have their term extended by one additional year.”

CHARTER TERM EXTENSIONS

In practical terms:

Last Approval (SY)	Charter Term	First Extension	Second Extension
2016-17	2017-2022	June 30, 2024	June 30, 2025
2017-18	2018-2023	June 30, 2025	June 30, 2026
2018-19	2019-2024	June 30, 2026	June 30, 2027
2019-20	2020-2025	June 30, 2027	June 30, 2028
2020-21 (low)	2021-2023	June 30, 2025	June 30, 2026
2020-21 (middle)	2021-2026	N/A	June 30, 2027

ALTUS SCHOOLS: CHARTER TERM EXTENSIONS

School Name	Charter Term	First Extension	Second Extension
Grossmont	2017-2022	June 30, 2024	June 30, 2025
Mirus	2017-2022	June 30, 2024	June 30, 2025
Sweetwater	2017-2022	June 30, 2024	June 30, 2025
CSSD	2018-2023	June 30, 2025	June 30, 2026
Audeo III	2018-2023	June 30, 2025	June 30, 2026
Audeo Charter School	2021-2026	N/A	June 30, 2027
Audeo II	2021-2026	N/A	June 30, 2027
Audeo Valley	2021-2026	N/A	June 30, 2027

BUDGET TRAILER BILLS OVERVIEW (SB 114 & SB 141)

Makes the “Abuse of Discretion” standard even more difficult

Prior to SB 114, in appealing the denial of a charter petition/renewal to the State Board of Education the requirement was a showing of “abuse of discretion” by either the school district **or** the county board of education.

Now, the petitioner must show that **both** the governing board of the school district **and** the county board of education abused their discretion.

SB 114 also added to Education Code §47605(k)(2)(E) the following language: “Abuse of discretion is the most deferential standard of review, under which the state board must give deference to the decisions of the governing board of the school district and the county board of education to deny the petition.”

THE COURTS TO THE RESCUE?

Napa Unified, CSBA Lawsuit

- Only one school had met the AB 1505 standard in eyes of the SBE
- District and CSBA sued the SBE for approving the charter on appeal
- On eve of court ruling, Trailer Bill changed the standard
 - But should not apply in this case
- What about future appeals?
 - New charters?
 - Renewal denials?

BUDGET TRAILER BILLS OVERVIEW (SB 114 & SB 141)

SB 114 - Moratorium Extended

SB 114 extends the moratorium on the establishment of new NCB charter schools.

The original version of the moratorium (Education Code §47612.7(a)) expired in 2022 and was first extended to January 1, 2025, as part of AB 130 (2021 Trailer Bill).

SB 114 extends the moratorium through January 1, 2026.

BUDGET TRAILER BILLS OVERVIEW (SB 114 & SB 141)

SB 114 - FCMAT Report to Watch

SB 114 adds Education Code §47612.7(d), which requires the Legislative Analyst and the County Office Fiscal Crisis and Management Assistance Team (FCMAT) to study the processes used to determine funding for nonclassroom-based charter schools and make recommendations for improvements to **enhance oversight, and reduce fraud, waste, and abuse.**

BUDGET TRAILER BILLS OVERVIEW (SB 114 & SB 141) – MONEY MATTERS

Exclusion from LCFF Funding

SB 114 appropriated \$300,000,000, commencing with the 2023-24 fiscal year, for the Local Control Funding Formula (LCFF) Equity Multiplier apportionment.

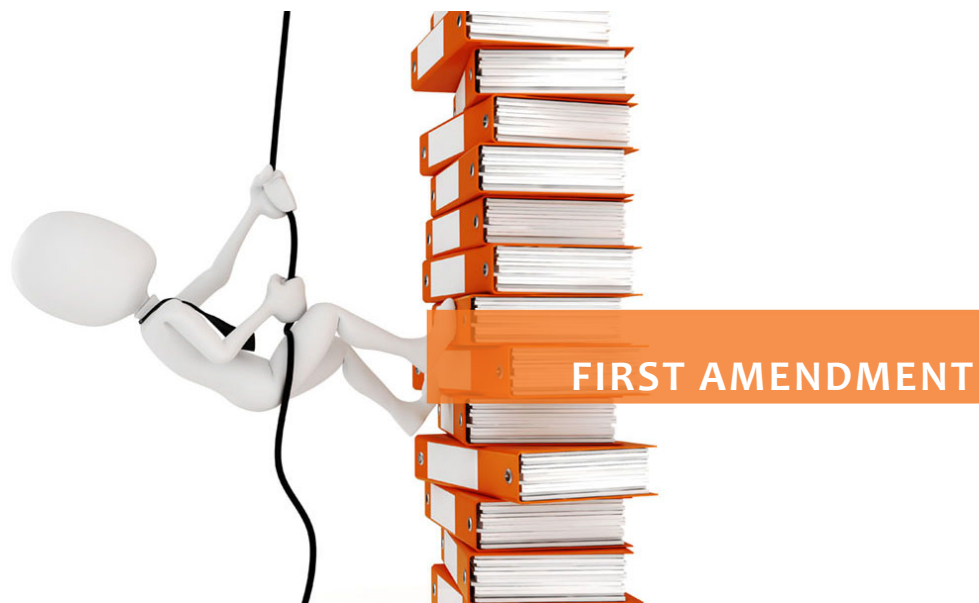
But SB 114, as revised by SB 141, specifically **excludes** from eligibility for this funding a charter school classified as a nonclassroom-based charter school as of the prior fiscal year's apportionment certification.

PENDING IS REGULATIONS

Draft amendments to Independent Study Regulations

- Comment period was open until August 1
- Suggests a minimum length of time for live interaction and synchronous instruction, which is nowhere in statute
- Appears to make traditional and course-based independent study interchangeable (they're not)
- Suggests that LEAs must maximize a student's learning and mastery

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FIRST AMENDMENT RELIGIOUS EXPRESSION

Kennedy v. Bremerton Sch. Dist. (2022) 142 S.Ct. 2407

- The United States Supreme Court held that under certain protect a public-school employee engaging in personal religious observances even if the religious activity occurs on public school premises – in this case, the football field.

FIRST AMENDMENT RELIGIOUS EXPRESSION

Kennedy v. Bremerton Sch. Dist. (2022) 142 S.Ct. 2407

- Importantly, the Court held that permitting a public school employee's individual expression of prayer under certain time, manner, and place considerations (e.g., after a football game during periods of time wherein personal activities were otherwise allowed and while not performing his public school duties and by not requiring or encouraging students to participate) did not constitute government – i.e., the public school district – endorsement of the football coach's religion or religious practices.

FIRST AMENDMENT RELIGIOUS EXPRESSION

Kennedy v. Bremerton Sch. Dist. (2022) 142 S.Ct. 2407

- The Court held that an individual's free religious exercise and free speech rights do not necessarily yield to the government's risk of seeming to endorse religion.
- The decision leaves open some important questions about the scope of the free-exercise rights of school employees and whether students will have greater protection for their own religious expression in public schools.

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FIRST AMENDMENT RELIGIOUS EXPRESSION

Carson v. Makin (2022) 142 S. Ct. 1987

- The United States Supreme Court held that Maine's exclusion of religious schools from a state tuition program for towns without public high schools violated the First Amendment's guarantee of the free religious exercise. The dissenters expressed fears that the ruling could lead to state aid for religious-themed charter schools.
- **Follow-Up:** Recently, the Attorney General of Oklahoma issued an advisory opinion that a provision of the state's charter school law requiring charter schools to be nonsectarian and not sponsored by religious organizations would likely violate the First Amendment under *Carson* and other recent U.S. Supreme Court decisions.

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FIRST AMENDMENT FREEDOM OF RELIGION

OKPLAC Inc. v. Statewide Virtual Charter School Board (2023)

Background

- In June, a school board in Oklahoma approved an application for a Catholic virtual charter school. The online public school will be administered by the Archdiocese of Oklahoma City and the Diocese of Tulsa. The school is scheduled to open in Fall 2024.
- The June vote passed 3-2. The application was denied 5-0 earlier in April.
- This decision expressed a desire to increase parent choice and “expand religious liberty.”

FIRST AMENDMENT FREEDOM OF RELIGION

OKPLAC Inc. v. Statewide Virtual Charter School Board (2023)

- This Oklahoma lawsuit was filed against a virtual charter school board that approved the first U.S. religious charter school on June 5th.
 - The Catholic Church-sponsored virtual academy is scheduled to launch in 2024 and serve 400-500 students in the first year. It will receive about \$2.5 million in state aid.
- Plaintiffs claim a publicly funded religious education violates the Oklahoma Constitution and the Charter Schools Act.

FIRST AMENDMENT FREEDOM OF RELIGION

OKPLAC Inc. v. Statewide Virtual Charter School Board (2023)

- Plaintiffs request the district court block:
 - The church from operating as a charter school.
 - The charter school board from entering into or implementing contracts with the church.
 - The state from funding the church.

FIRST AMENDMENT FREEDOM OF RELIGION

OKPLAC Inc. v. Statewide Virtual Charter School Board (2023)

- Defendant asserts the exclusion of religious schools – exclusively on the basis of religion – from the state virtual charter schools program is unconstitutional.
- Defendant claims that charter schools are not public schools and therefore are not state actors or acting with government authority.
- Stay tuned for court’s determination.

FIRST AMENDMENT FREEDOM OF RELIGION

Woolard et al., v. Thurmond, et al. (October 2023)

- Two non-classroom-based charter schools (along with the SPI and two districts) are facing legal action from parents who are claiming that the schools unlawfully denied them the use of state funds to purchase religious materials for their homeschooling programs.
- Citing *Carson v. Makin*, Plaintiffs assert that “when the government provides a benefit, like parent-directed educational funding, it cannot exclude families just because they choose to use that benefit for religious education.”

FIRST AMENDMENT FREEDOM OF RELIGION

Woolard et al., v. Thurmond, et al. (October 2023)

- However, California law strictly prohibits a charter school from providing “religious” or “faith-based” curricula.
 - California Constitution provides that “No public money shall ever be appropriated for the support of any sectarian or denominational school.” (Article IX, Section 8.)
 - Education Code provides that “a charter school shall be nonsectarian in its programs... and all other operations.” (Ed. Code Section 47605.)
 - CDE echoes these sentiments, providing that “pupils cannot use religious materials to complete independent study assignments.”
- No opinion ever has found that a public school’s refusal to adopt a religious or faith-based curriculum constitutes a violation of the federal Free Exercise Clause or the Free Speech Clause.
- This is one to watch: can likely expect much press. YMC is representing NCB defendant.

FIRST AMENDMENT FREEDOM OF SPEECH

Garnier v. O'Connor-Ratcliff (9th Cir. 2022) 41 F.4th 1158

Background

- Two school board members used Facebook and X (formerly Twitter) to publicly share information about board meetings, open school positions, and student activities. They also could post to and moderate the comments posted to the school's public page.
- Two parents were vocal critics of the Board. They would post dozens or hundreds of repetitive comments to the board members' social media accounts over mere minutes.
- The board members initially deleted or "hid" the repetitive comments.

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FIRST AMENDMENT FREEDOM OF SPEECH

Garnier v. O'Connor-Ratcliff (9th Cir. 2022) 41 F.4th 1158

Background, cont.

- Eventually, both board members blocked the parents from their personal social media accounts. The parents could no longer see or comment on the board members' posts.
- The board members later introduced "word filters" that prevented comments with commonly used words from being posted. This effectively prevented any person from commenting.
- Parents sued for 1st Amendment violation.

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FIRST AMENDMENT FREEDOM OF SPEECH

Garnier v. O'Connor-Ratcliff (9th Cir. 2022) 41 F.4th 1158

- Plaintiffs argue the school board members engaged in “state action” when they block individuals on their personal social media accounts. They acted in their official capacity as board members in the use and management of their social media accounts.
- Defendants argued that managing their personal social media accounts was not performance of an official duty. They asserted that the use of the social media accounts was primarily to further their own political careers.

FIRST AMENDMENT FREEDOM OF SPEECH

Garnier v. O'Connor-Ratcliff (9th Cir. 2022) 41 F.4th 1158

- The 9th Circuit decided the nexus between the board members’ use of their social media pages and their official positions was close enough to qualify them as acting under color of state law. Thus, the Court found that blocking the comments was unconstitutional.
- The U.S. Supreme Court will hear arguments on October 31st.

FIRST AMENDMENT FREE SPEECH

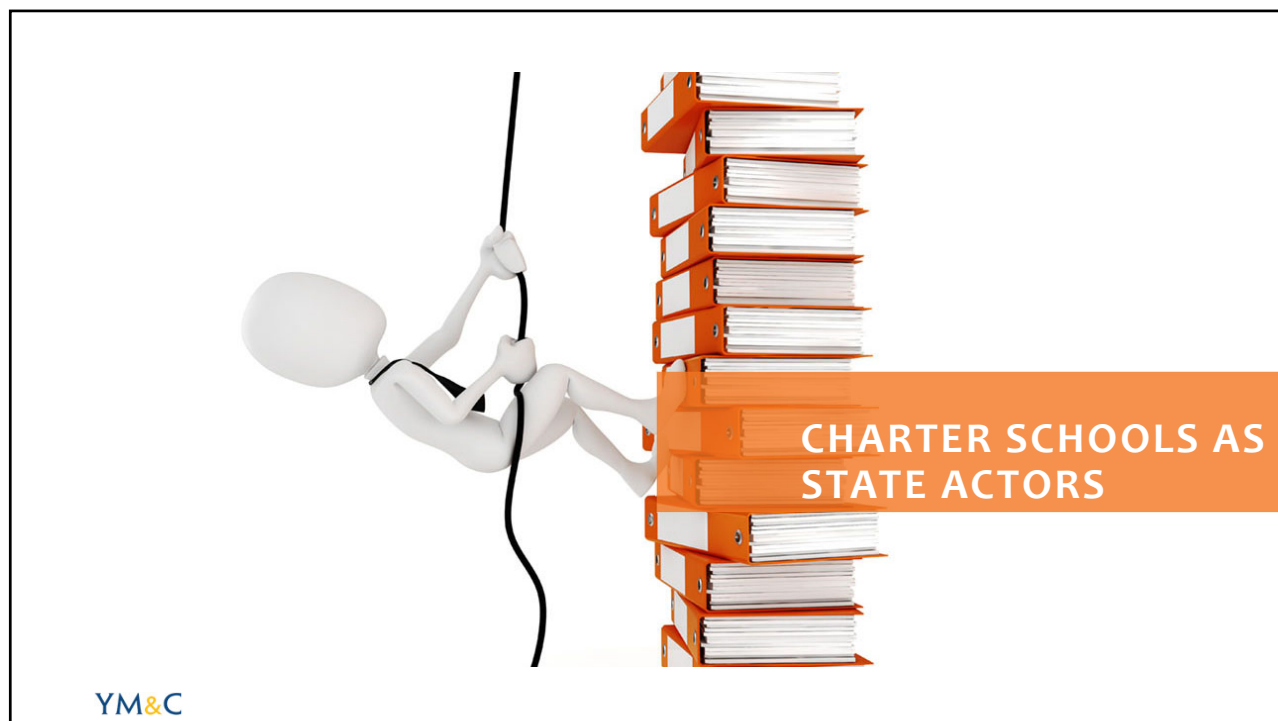
Chen v. Albany Unified Sch. Dist. (9th Cir. 2022) 56 F.4th 708

- In December 2022, the Ninth Circuit Court of Appeals upheld Albany Unified School District's discipline of two high school students over an off-campus Instagram account with racist imagery and comments targeting their Black classmates.
- The Court unanimously rejected the students' arguments that the off-campus speech was protected by the First Amendment and not subject to school discipline.

FIRST AMENDMENT FREE SPEECH

Chen v. Albany Unified Sch. Dist. (9th Cir. 2022) 56 F.4th 708

- The Court noted that the U.S. Supreme Court's 2021 decision in *Mahanoy Area School District v. B.L.*, which overturned the discipline of a student for her off-campus social media rant about her cheerleading team, still left room for schools to regulate bullying of students on social media. Because the speech originated off campus, the panel analyzed the case under *Mahanoy* and a 2019 9th Circuit decision that allows schools to regulate off-campus speech when it has a sufficient connection, or nexus, to school.
- The Court observed that *Mahanoy* did not set a broad definition for when off-campus speech could be regulated but did suggest school officials had more leeway when there was substantial disruption on campus or when there was a threatened harm to the rights of others.



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STATE ACTORS

Peltier v. Charter Day Sch., Inc. (4th Cir. 2022) 37 F.4th 10

- This North Carolina case questioned whether a charter school is a “state actor” for purposes of student claims.
 - If a charter school is a “state actor,” charter schools can be sued for violations of students' rights under the U.S. Constitution and other federal laws.
 - If a charter school is not a “state actor,” charter schools cannot be sued for violations of students' rights under the U.S. Constitution.

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STATE ACTORS

Peltier v. Charter Day Sch., Inc. (4th Cir. 2022) 37 F.4th 10

- Charter school was sued by the ACLU on behalf of students alleging that the school's uniform policy violated federal law.
 - The uniform policy required boys to wear pants or shorts and required girls to wear skirts, skorts or dresses. Girls were allowed to wear leggings or pants under their skirts, skorts or dresses if the weather so required.
 - The school explained the uniform policy intended to treat boys and girls differently because girls are “fragile vessels,” and boys would be taught to protect them and act chivalrously towards them if they dressed differently.

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STATE ACTORS

Peltier v. Charter Day Sch., Inc. (4th Cir. 2022) 37 F.4th 10

- Students argued that the charter school was a “state actor” because it was a public school, and that therefore, students had viable equal protection claims against their school.
- School argued that the charter school was not a “state actor” because it was operated by a private non-profit corporation (i.e., like many charter schools in California) and therefore students could not maintain an equal protection claim against the school.

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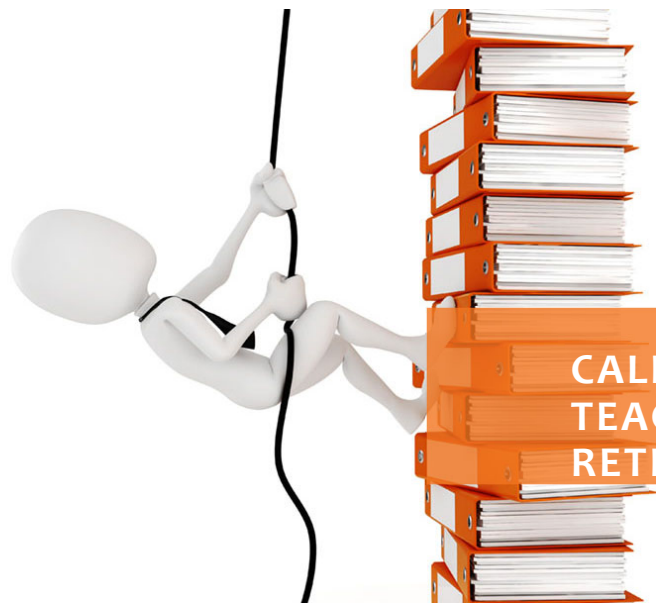
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STATE ACTORS

Peltier v. Charter Day Sch., Inc. (4th Cir. 2022) 37 F.4th 10

- 4th Circuit Court of Appeal held that charter schools, as public schools, are “state actors” for purposes of student claims alleging violations under the U.S. Constitution. The strict dress code requiring girls to wear skirts was a violation of the 14th Amendment’s equal protection clause.
- The Supreme Court declined to hear this case. The 4th Circuit Court of Appeal decision still stands.



CALIFORNIA STATE
TEACHERS'
RETIREMENT SYSTEM

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM (CALSTRS)

- **Pending litigation:** Some nonprofit corporations operating multiple charter schools have had individual employees or retirees be informed that because the employee/retiree worked at the nonprofit corporation or 'home office' level (as opposed to having been exclusively assigned to one school), that employee/retiree did not work for an "employer" for purposes of Education Code section 22131 and therefore did not perform "creditable service" and should not have been in CalSTRS. Lawsuit has been filed.

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NEW LAWS: EMPLOYEES

SB 497 (Smallwood-Cuevas) – Protected Conduct

Creates a rebuttable presumption in favor of an employee's claim of discrimination/retaliation if an employer engages in any discriminatory or retaliatory action within 90 days of the specified protected activity.

An employer that is a corporation or LLC is subject to a civil penalty of up to \$10,000 per employee for each violation.

SB 700 (Bradford) – Cannabis Discrimination

Makes it unlawful for an employer to request information from an applicant relating to the applicant's prior use of cannabis.

But information about a person's prior cannabis use obtained from the person's criminal history is exempt from this provision if the employer is permitted to consider or inquire about that information under a specified provision of FEHA or other state or federal law.

SB 616 (Gonzalez) – Paid Sick Leave

Requires employers to provide employees with at least 5 days or 40 hours of sick leave each year by the 200th day of employment or each calendar year, or in each 12-month period.

Altus Schools far exceeds this requirement.

SB 848 (RUBIO) – LEAVE FOR REPRODUCTIVE LOSS

Makes it unlawful for an employer to refuse to grant a request by an eligible employee to take up to 5 days of reproductive loss leave following a reproductive loss event.

Requires the leave to be taken within 3 months of the event.

If the employee experiences more than one qualifying event within a 12-month period, the employer is not obligated to grant more than a total of 20 days within the 12-month period.

The leave may be unpaid.

PAGA CLAIM ARBITRATION

Viking River Cruises, Inc. v. Moriana (2022) ___ U.S. ___

- **Issue:** Are Private Attorneys General Act of 2004 (“PAGA”) claims subject to individual arbitration in California?
- **Background:** A former employee filed a PAGA action against her former employer in California state court seeking civil penalties and claiming that Viking failed to provide her with her final wages within the time frame required by the California Labor Code. She also asserted a wide array of other Labor Code violations (i.e., minimum wage, overtime, meal periods, rest periods, timing of pay, and pay statements) allegedly sustained by other Viking employees. Viking moved to compel arbitration of the former employee’s “individual” PAGA claim.

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PAGA CLAIM ARBITRATION

Viking River Cruises, Inc. v. Moriana (2022) ___ U.S. ___

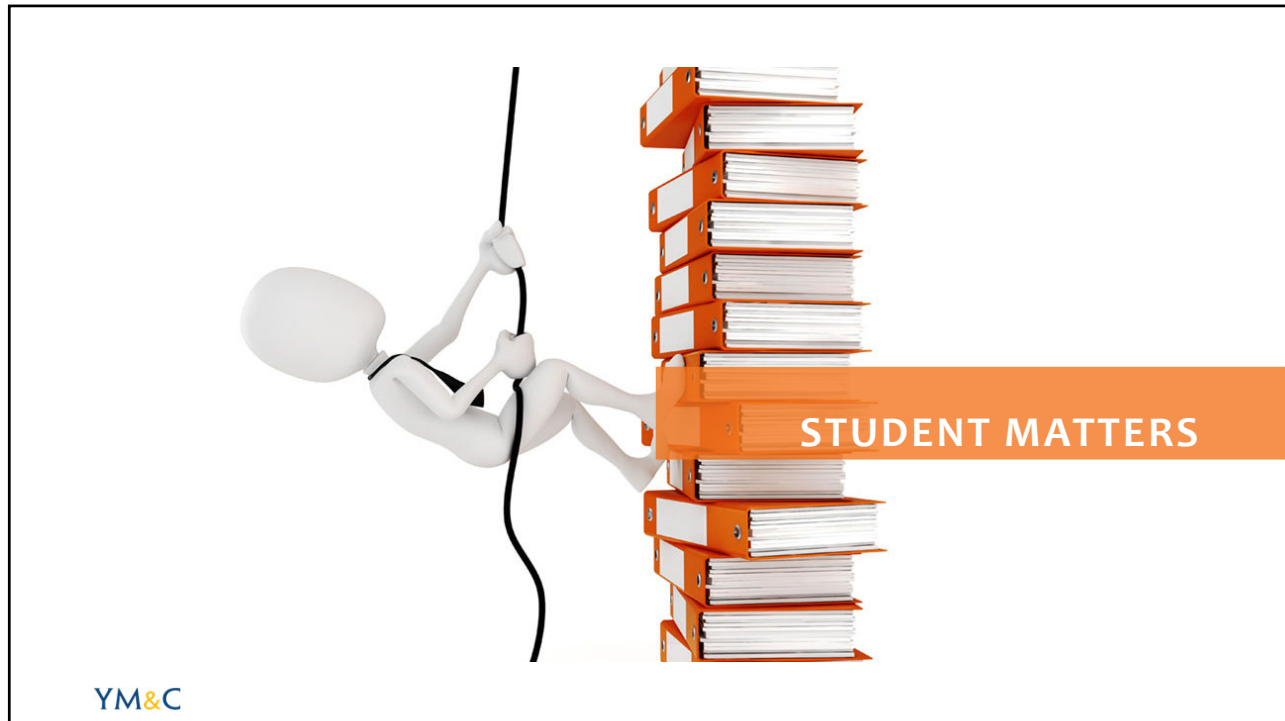
- **Takeaway:** The U.S. Supreme Court, in reversing the California Supreme Court, held that former rule that an “individual” PAGA claim is not divisible from the “representative” PAGA claim—is incompatible with the Federal Arbitration Act. Employers need to evaluate their arbitration agreements going forward and work with experienced counsel to craft the agreements to include within their scope individual PAGA claims as well as provisions to prevent agreements from being interpreted as wholesale waivers of “representative” PAGA claims, and to maneuver through the minefield of other provisions that could prevent the enforcement of arbitration agreements between employees and their employers.

Seek the advice of counsel!

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STUDENT CONDUCT

SB 274 (Skinner) – Willful Defiance

Commencing July 1, 2024, prohibits the suspension of students enrolled in any of grades 9-12, inclusive, including in charter schools, for “willful defiance”, as defined, until July 1, 2029, but retains a teacher’s authority to suspend any student in any grade from class for those acts.

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STUDENT EXCUSED ABSENCES

SB 350 (Ashby) – Funeral and Support

Increases the number of days a student must be excused to attend a funeral or grieve the death of a family member to 5 days (current law: 1 day in-state funeral and 3 days out of state)

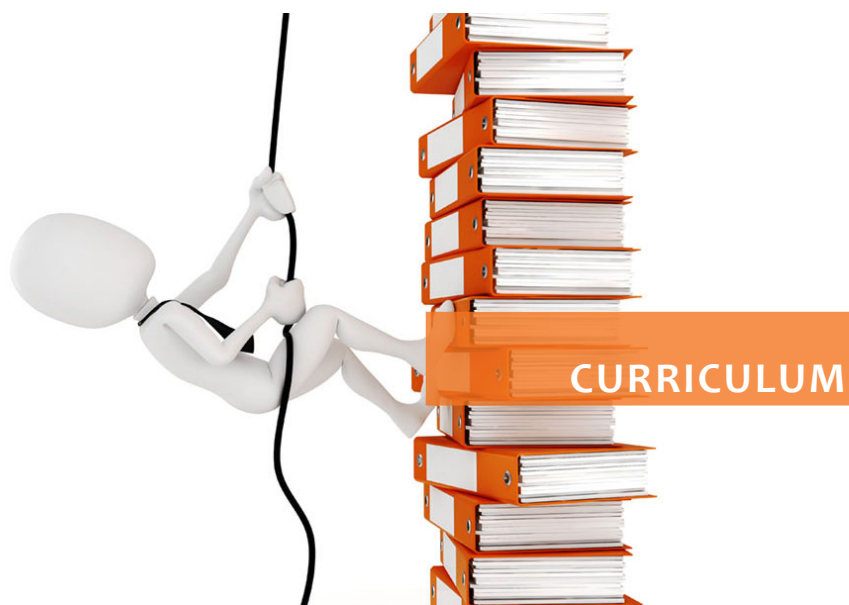
Requires a student to be excused for not more than 3 days for the purpose of accessing victim or grief support services or participating in safety planning related to the death of the student's immediate family member.

AB 1503 (Lee) – Religious Retreats

Revises the amount of time a student may be excused from school for attendance at a religious retreat from no more than 4 hours per semester to no more than 1 schoolday.

Education Code §48205(c): “attendance at religious retreats shall not exceed ~~four~~ **hours one schoolday** per semester.”

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AB 1078 (JACKSON) – DIVERSITY IN CURRICULUM

Effective **September 25, 2023***:

Requires LEAs, when adopting instructional materials, to include materials that accurately portray the cultural and racial diversity of our society, including contributions of people of all genders and the role and contributions of Latino Americans, LGBTQ+ Americans, and other ethnic, cultural, religious, and socioeconomic status groups

*AB 1078 was enacted as an “urgency statute,” which took effect immediately.

AB 1078 (JACKSON) – DIVERSITY IN CURRICULUM

Existing Law:

The Safe Place to Learn Act, requires the CDE, as part of its regular monitoring and review of an LEA, to assess whether the LEA has adopted a policy that prohibits discrimination, harassment, and bullying.

AB 1078:

Requires that policy to include a statement that it applies to all acts of the governing board or body of the LEA in enacting policies and procedures that govern the LEA.

Education Code §242, added by AB 1078, requires the CDE to, no later than July 1, 2025, develop guidance and public educational materials



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THANK YOU

Paul Minney, Esq.
pminney@ymclegal.com

Kaela Haydu, Esq.
khaydu@ymclegal.com

ymclegal.com | 916.646.1400

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