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New Law Adds LEA NPA and NPS Monitoring and Reporting Obligations

Assembly Bill 1172, which took effect January 1, 2020, imposes new monitoring and reporting obligations on local educational agencies (“LEAs”) for nonpublic schools (“NPSs”) and nonpublic agencies (“NPAs”) with which LEAs have master contracts. LEAs must conduct regular onsite inspections of NPSs and must also verify NPS and NPA compliance with new staff training requirements. LEAs may need to revise their master contracts to reflect these new requirements, and designate staff to coordinate the implementation of the monitoring and reporting obligations.

Prior to the enactment of AB 1172, LEAs entered into master contracts with NPSs at which they placed students and NPAs that provided services to students. Although the master contracts had to describe how LEAs would oversee those placements and services, prior law did not require specific oversight actions. Additionally, prior law required NPSs and NPAs to certify to the California Department of Education (“CDE”) that their staff held appropriate licenses and credentials. However, prior law did not contain specific staff training requirements.

AB 1172, which amended Education Code sections 51225.2, 56365, 56366.1, 56366.4, and 56366.10, requires LEAs, commencing with the 2020-21 school year, to conduct, at a minimum, one onsite visit to an NPS with which they have a master contract before placing a student in the NPS if the LEA does not currently have any students enrolled in the NPS. LEAs must also conduct at least one onsite visit during each school year that the student is enrolled in the NPS. The monitoring visit must include at a minimum: (1) reviewing the services provided to the student and the student’s progress toward IEP and behavior plan goals; (2) observing the student during instruction; and (3) conducting a walkthrough of the facility. The LEA must report its findings to CDE within 60 calendar days of the onsite visit.

Also commencing with the 2020-21 school year, LEAs must verify that an NPS/NPA with which the LEA contracts has trained staff who will have contact with students in the use of evidence-based behavior practices and interventions. Appropriately licensed and certified persons must conduct the training, which must be consistent with California law governing restraint and seclusion (Education Code sections 49005 *et seq.*). NPSs and NPAs must submit documentation of the training to CDE as part of their initial and renewal applications for certification.

AB 1172 imposes several additional requirements on NPSs/NPAs of which LEAs should be aware:

- NPS administrators must comply with specified credentials or licenses.
- NPSs/NPAs must notify CDE and the LEA in writing of any incident involving a student in which law enforcement was contacted. The notification must occur within one business day of the incident.
- For an NPS that serves students with significant behavioral needs or who have behavior intervention plans, the school must have an individual onsite during school hours who meets legal requirements for persons who may design or plan behavioral interventions.

- CDE may immediately suspend or revoke an NPS/NPA certification if it determines that student health or safety has been or is in danger of being compromised.

The new requirements imposed by AB 1172 likely will result in additional costs to LEAs, but LEAs can seek reimbursement from the state for those costs.

In light of AB 1172, LEAs should consider:

- Revising master contracts with NPSs and NPAs to include AB 1172 requirements.
- Appointing one staff person to oversee implementation of AB 1172 obligations.
- Conducting more than the minimal number of onsite visits to an NPS that has excessive reports of student incidents involving law enforcement and possibly conducting onsite visits to NPAs under similar criteria.

If you have any questions about the requirements and implications of AB 1172, or other related questions, please contact one of our six offices.

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