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California Relaxes Some Timelines Related to Special Education and Uniform Complaints

Senate Bill (“SB”) 117, which takes effect immediately, provides for continued funding if a school is closed due to COVID-19 and complies with Governor Newsom’s Executive Order N-26-20. In addition, SB 117 has immediate legal and practical impacts on school districts that have closed, by relaxing the following timelines related to special education and uniform complaints .

Uniform Complaints

- Existing Education Code section 33315 and implementing regulations establish uniform complaint procedures that apply to the filing, investigation, and resolution of complaints alleging a violation of federal or state law by a local agency that provides school programs or activities. SB 117 extends all uniform complaint timelines by the length of time a school is closed due to COVID-19.

Assessment Plans

- Existing Education Code sections 56043(a) and 56321(a) require a local educational agency (“LEA”) to develop an assessment plan within 15 calendar days from referral (or within 10 calendar days of the start of the school year if the referral was made within the last 10 calendar days of the prior school year), *not counting calendar days between the regular school year sessions or terms or calendar days of school vacation in excess of five days*. Under SB 117, the days that a school is closed due to COVID-19 are considered as days between a regular school session up until the time the school reopens and the regular school session reconvenes.

Student Records Requests

- Existing Education Code sections 56043(n) and 56504 require an LEA to allow a parent or guardian to examine student records of the child and receive copies of those records within five business days. LEAs must comply with a request for school records without unnecessary delay before an individualized education program team meeting, a due process hearing, or resolution session. SB 117 waives that timeline up until the time the school reopens and the regular school session reconvenes.
- Existing Education Code section 56043(o) and section 3024(a) of Title 5 of the California Code of Regulations require a former LEA to send a student’s records to an LEA in which the student has enrolled within five working days from receipt of the request from the former LEA. SB 117 waives that timeline up until the time the school reopens and the regular school session reconvenes.

SB 117 applies to all LEAs, even if an LEA continues to offer educational opportunities through distance learning and/or independent study during the time the school is closed due to COVID-19. The Legislature, however, encourages LEAs to respond as expeditiously as possible to records and assessment requests received during this time.

It is important to note that SB 117 does not waive any requirements under the Individuals with Disabilities Education Improvement Act (“IDEA”), nor has the federal government waived any such requirements—at least at this time. Consequently, all IDEA requirements, including timelines, continue to apply.

In light of SB 117, LEAs should consider the following:

- Prioritize compliance with all health directives from federal, state, and local health agencies in making any decisions.
- Document uniform complaints received to which the LEA had not responded prior to the school closure, as well as uniform complaints received during the closure, so that the LEA can respond in a timely manner when the regular school session reconvenes.
- Respond to records and assessment requests as expeditiously as possible in light of the particular circumstances of the school during the closure.
- If responding to a records or assessment request is not feasible, document requests to which the LEA had not responded to prior to the school closure, and any such requests that are made during the closure, so that the LEA can respond in a timely manner once the regular school session reconvenes.

We understand that LEAs are facing many unprecedented issues related to COVID-19. Please do not hesitate to contact one of our six office if you need any support navigating these issues and/or if you have any questions about the requirements and implications of SB 117.

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