
Community College Vaccine Mandates: Practical and Legal Considerations



**2021 ACHRO Conference
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Agenda

- Vaccine Mandates
 - Constitutional considerations
 - Vaccine approval status
 - Vaccine mandate litigation
 - Student Exemptions To Vaccine Requirements
 - Authority of CCDs under California law
 - CCCCCO Advisory
 - PERB Decisions
 - Collective Bargaining implications
 - Practical Considerations
- EEO Considerations
- Employee Leave Entitlements
- Questions & Answers

Vaccine Mandates

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Vaccine Mandates — Constitutional Considerations

Issue: rights of individual vs. authority of state to protect health and safety of the community

- *Jacobson v. Massachusetts* (1905): US Supreme Court upholds authority of local municipality to require vaccination against smallpox; observes that anti-vaccine arguments “are more formidable by their number than by their inherent value”
- *Brown v. Smith* (2018): California Court of Appeal upholds 2016 changes to California law which eliminated “personal belief exemption” to general requirement of vaccination as a condition of enrollment in public or private school

Vaccine Approval Status Under Federal Law

Issue: does Federal law limit vaccine mandates where the vaccine is approved under an “emergency use authorization”?

- Pfizer vaccine has full approval for ages 16+ (as of August 23, 2021)
- All other COVID-19 vaccines (e.g. Moderna, J&J) are currently approved under an “emergency use authorization”
- Approval for additional vaccines and age groups is pending
- For vaccines issued under “emergency use authorization” (“EUA”), the Secretary of Health and Human Services must “to the extent practicable given the applicable circumstances” require that individuals have “the option to accept or refuse administration of the product . . .” (21 U.S.C. section 360bbb-3(e)(1)(a)).

Vaccine Approval Status Under Federal Law

ISSUE: does EUA status prohibit colleges/universities from requiring vaccination before full FDA approval?

- CDC: “Whether an employer may require or mandate COVID-19 vaccination is a matter of state or other applicable law” https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/essentialworker/workplace-vaccination-program.html#anchor_1615585395585
- The U.S. Department of Justice has determined that mandatory vaccination of employees, through use of vaccines approved under an EUA, does not violate the law. (See <https://www.justice.gov/olc/file/1415446/download>).
- Federal courts which have considered the same statute have held that schools may require use of vaccines approved under an EUA. NOTE: The same rationale applies in the context of face masks. (See *Klaassen v. Trustees of Indiana University*, U.S. District Court decisions and 7th Circuit Court of Appeals decisions, discussed several slides below)

Vaccine Mandate Litigation

- *Klaassen v. Trustees of Indiana University* (July 18, 2021)
 - Courts upheld Indiana University policy requiring vaccination, subject to medical and religious exemption (requiring weekly testing and use of a face covering).
 - U.S. District Court denied request for preliminary injunction (July 18, 2021)
 - Opinion: <https://www.courthousenews.com/wp-content/uploads/2021/07/klaassen-indiana.pdf>
 - 7th Circuit Court of Appeals denied appeal (August 2, 2021)
 - Opinion: <https://law.justia.com/cases/federal/appellate-courts/ca7/21-2326/21-2326-2021-08-02.html>
 - » *Jacobson* case upheld vaccine mandate for all adults without exception.
 - » Testing/masking requirement for those exempt from vaccination is “not constitutionally problematic.”
 - » “If conditions of higher education may include surrendering property and following instructions about what to read and write, it is hard to see a greater problem with medical conditions that help all students remain safe when learning. A university will have trouble operating when each student fears that everyone else may be spreading disease. Few people want to return to remote education — and we do not think that the Constitution forces the distance-learning approach on a university that believes vaccination (or masks and frequent testing of the unvaccinated) will make in-person operations safe enough.
 - U.S. Supreme Court (Justice Barrett) refused to intervene (August 12, 2021).

Vaccine Mandate Litigation

- *Bridges v. Houston Methodist Hospital* (June 12, 2021, Southern District of Texas)
 - On April 1, 2021, Houston Methodist Hospital announced a policy requiring employees be vaccinated against COVID-19 by June 7, 2021; some employees sued to block the policy
 - Court dismissed the lawsuit, explaining that the federal regulations governing emergency use authorizations “confer[] certain powers and responsibilities to the Secretary of Health and Human Services in an emergency. It neither expands nor restricts the responsibilities of private employers; in fact it does not apply at all to private employers like the hospital in this case. It does not confer a private opportunity to sue the government, employer, or worker.”
 - Court said: “Methodist is trying to do their business of saving lives without giving them the COVID-19 virus. It is a choice made to keep staff, patients, and their families safer. Bridges can freely choose to accept or refuse a COVID-19 vaccine; however, if she refuses, she will simply need to work somewhere else.”
 - *Note*: case does not govern California employers, but gives indication of how other courts *may* rule on similar arguments regarding vaccine mandates applicable to employees

Vaccine Mandate Litigation

- *University of Massachusetts (Lowell)*
 - The court upheld a vaccine mandate
 - The court also upheld the college's denial of religious exemption to a student whose faith (Roman Catholic) did not oppose vaccination
 - <https://www.bloomberglaw.com/public/desktop/document/HarrisetalvUniversityofMassachusettsLowelletalDocketNo121cv11244D/2?1633382142>
- *Dahl v. Board of Trustees of Western Michigan University* (Preliminary Injunction issued 9/9/21)
 - The court held that student religious exemptions to vaccine mandates involving discretionary review (and potentially denial) are subject to *strict scrutiny*
 - Conditions established for students with a religious exemption must be *narrowly tailored* in order to meet a *compelling interest*.
 - The court held denying student athletes with a religious exemption the right to participate in athletics did not meet this standard.

Student Exemptions To Vaccine Requirements

- Medical/disability exemptions
- Religious exemptions
- Other grounds for exemption

Student Religious Exemptions To Vaccine Requirements

- Student religious exemptions are arguably not required by law.
 - See *Brown v. Smith* (Cal.Ct.App. 2018).
- Colleges choosing to offer student religious exemptions, which are subject to approval within the College's discretion, may be subject to *strict scrutiny* analysis by the courts
 - See *Dahl v. Board of Trustees of Western Michigan University*

Vaccine Mandates — Authority of CCDs Under California Law

- CCD governing boards have general authority to “initiate and carry on any program, activity, or [...] otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which [such] districts are established.” (Educ. Code § 70902.)
 - Health and Safety Code extensively regulates K12 vaccination requirements; says much less about colleges & universities
- CCDs have authority to exclude students suffering from infectious or contagious disease (Educ. Code § 76020)
- CCDs have authority to establish immunization programs administered by qualified health professionals, subject to specified conditions. (Educ. Code § 76403.)

Vaccine Mandates — CCCCO Advisory 5/7/21

- “Provisions of California law, taken together, indicate that the responsibility for determining whether to impose a vaccination requirement is within the authority of community college districts.”
- “[C]olleges and universities may decide to impose a vaccine mandate only after vaccines receive regular approval, and there is adequate availability [...] There is no clear timeline that assures vaccinations will be approved prior to the fall term, 2021.”
- “Federal and state civil rights laws will require that any district vaccine mandate must include exemptions for medical necessity and sincerely held religious beliefs. Whether to extend exemptions to other students will be within the discretion of district officials.”
- Cf. Legal Opinion L 02-01 (Jan. 16, 2002)

K-12 Vaccine Guidance

- CDPH requires vaccination or testing for K-12 employees (effective 10/15/21)
 - <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Vaccine-Verification-for-Workers-in-Schools.aspx>
- Governor announces K-12 student vaccine mandate, which is also intended to apply to K-12 employees
 - <https://www.gov.ca.gov/2021/10/01/california-becomes-first-state-in-nation-to-announce-covid-19-vaccine-requirements-for-schools/>
 - <https://www.gov.ca.gov/wp-content/uploads/2021/10/California-Becomes-First-State-in-Nation-to-Announce-COVID-19-Vaccine-to-List-of-Required-School-Vaccinations.pdf>

PERB Decision re Flu Vaccine Mandate

- PERB recently held that a university decision to mandate the *flu vaccine* was not subject to negotiation, but the *effects* of the decision are negotiable.
 - *Regents of the University of California* (2021) PERB Decision No. 2783-H

Vaccine Mandates — Collective Bargaining Implications

- Vaccine mandates generally
- Exemption/Accommodation
- Employee discipline and alternatives
- Vaccine incentives

EEOC GUIDANCE

Potential Scenarios – Return to Campus

- Employee asks for accommodation of employee's own illness/disability.
- Employee asks for accommodation because employee is age 65 or older.
- Employee asks for accommodation to avoid exposing family member with illness/disability to COVID-19 risk.
- Employee asks for accommodation to avoid exposing family member age 65 or older to COVID-19 risk.
- Employee asks for accommodation based on childcare needs/school schedule.
- Employee refuses vaccination based on disability.
- Employee refuses vaccination based on religion.
- Employee refuses vaccination and testing.

EEOC COVID-19 Guidance

- EEOC Guidance 12/16/20, updated 5/28/21: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>
- Addresses application of EEOC laws (only) to employer policies mandating COVID-19 vaccine – ADA, GINA, Title VII
- EEOC currently considering further updates based on CDC's guidance for fully vaccinated individuals issued on 5/13/21
- Note also DFEH Guidance March 4, 2021: https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2020/03/DFEH-Employment-Information-on-COVID-19-FAQ_ENG.pdf

EEOC Guidance – Employee Vaccine Status

- Employees vaccination status (vaccinated or unvaccinated) is **confidential**.
- Vaccination documentation **must** be maintained in a confidential medical record (not the regular personnel file).
- These requirements apply regardless of whether employer has a policy requiring employees to be vaccinated

EEOC Guidance (continued)

- Employer requirement of proof of receiving COVID-19 vaccine is not, by itself, a “disability related medical inquiry,” but follow-up questions about ***why*** an employee has not received vaccine may trigger ADA protections.
 - Remember: Do ***not*** ask unnecessary intrusive follow-up questions that may trigger ADA protections.
 - CalOSHA regulations establish different rules for safety and employee conduct (e.g. face coverings) depending on employee vaccine status – employers must document employee vaccine status, but should limit information requests and documentation to essential information only.

EEOC Guidance – Mandatory Vaccinations for Employees

- Equal Employment Opportunity laws do not prevent employers from requiring employees be vaccinated for COVID-19, ***however***, employers must provide exemptions accommodating disability and religion.
- Employer vaccine mandate is permitted, if “job related and consistent with business necessity.”
- If employee seeks exemptions from vaccine requirement due to pregnancy, employee may be entitled to job modifications.
- “Employers should keep in mind that because some individuals or demographic groups may face greater barriers to receiving a COVID-19 vaccine than others, some employees may be more likely to be negatively impacted by a vaccination requirement.”

EEOC Guidance - Medical Condition/Disability

- If employee cannot meet vaccination requirement due to disability, employer may not require compliance unless “direct threat” to health or safety of employee or others in the workplace.
- “Direct threat” determination requires “individualized assessment of employee’s present ability to safely perform essential functions of the job.”
 - “Reasonable medical judgment that relies on the most current medical knowledge about COVID-19”
 - Duration of risk
 - Nature and severity of potential harm
 - Likelihood that potential harm will occur
 - Imminence of potential harm
- If direct threat exists, assess whether reasonable accommodation would reduce or eliminate (via interactive process)

EEOC Guidance – Religious Exemptions

- EEOC observations:
 - “The definition of religion is broad and protects beliefs, practices, and observances with which the employer may be unfamiliar.”
 - “[E]mployer should ordinarily assume that an employee’s request is based on a sincerely held religious belief, practice or observance.”
 - Employee request for exemption from employer policy based on employee’s religious beliefs or practices may require the employer to accommodate the request, unless to do so would pose an “undue hardship.”
 - **Note also:** In addition to religious belief, moral/ethical beliefs that are held with the strength of traditional religious views are also entitled to accommodation.
- Undue hardship considerations include:
 - Proportion of employees in the workplace already vaccinated
 - Extent of employee contact with non-employees whose vaccination status may be unknown

EEOC Guidance – Employee Religious Exemptions

- Laws
 - Title VII of the 1964 Civil Rights Act prohibits religious discrimination in employment and requires employers to make reasonable accommodations for an employee's religious observance where such accommodations would not impose an undue hardship upon the employer. (*Trans World Airlines v. Hardison* (1977) 432 U.S. 63.)
 - **Note also:** FEHA (see, e.g., Gov. Code 12926; 2 CCR 11062) may provide a more deferential standard than Title VII when dealing with accommodation of religious belief.

EEOC Guidance – Reasonable Accommodations

- Examples of reasonable accommodations:
 - Wear a face mask
 - Work at a social distance from coworkers or non-employees
 - Work a modified shift
 - Get periodic tests for COVID-19
 - Opportunity to telework
 - Accept a reassignment
 - Temporary leave (including unpaid leave)

EEOC Guidance – Communication to Employees

- Managers and supervisors responsible for communicating with employees about return to campus should know how to recognize an accommodation request from an employee with a disability and know to whom the request should be referred for consideration.
- Under California law, failure to engage in an interactive process may be an independent violation, even if the employee cannot be reasonably accommodated!

EEOC Guidance – Vaccine Incentives

- Incentives for employees to get vaccine voluntarily through pharmacy etc. are OK.
- Incentives for employees to get vaccine voluntarily through employer OK if not “coercive.”
- Incentives for employees’ family members to get vaccine are not OK, due to GINA (but OK to offer to family members without incentive).

EMPLOYEE LEAVE ENTITLEMENTS

Potential Sources of Employee Leave Rights

- SB 95
 - Expired 9/30/21; “replaced” FFCRA which expired 12/31/20
 - Retroactivity issue for leaves taken during period 1/1/21-3/29/21
- Cal/OSHA
- Existing Leave Laws (Educ. Code, Labor Code, FMLA/CFRA, etc.)
- Existing CBA
- MOU, if applicable
- ADA/FEHA (disability accommodation)

Cal/OSHA Leaves

- *Emergency Temporary Standards for COVID-19 and Revised Emergency Temporary Standards for COVID-19* in the workplace.
- Title 8 CCR § 3205(c)(10) employers must exclude employees from the workplace where:
 - They have a positive COVID-19 test,
 - Are subject to a COVID-19 order to isolate, or
 - Have been exposed to COVID-19.
- If the exposure was work-related, employers shall continue and maintain an employee's earnings, seniority, and all other employee rights and benefits, including their former job status if they are otherwise able and available to work.

Cal/OSHA Leaves

- Not required to maintain salary and benefits when the employee is unable to work “for reasons other than protecting persons at the workplace from possible COVID-19 transmission” or where the employer shows that the COVID-19 exposure was not work-related.
- “COVID-19 Emergency Temporary Standards Frequently Asked Questions,” most recently updated on June 18, 2021. In its FAQs, Cal/OSHA clarified that an employee is not eligible to receive exclusion pay if the employee is unable to work because the employee is experiencing COVID-19 symptoms. See also, “Revisions to the COVID-19 Prevention Emergency Temporary Standards Frequently Asked Questions”
- The FAQs can be found at:
<https://www.dir.ca.gov/dosh/coronavirus/COVID19FAQs.html>.

Potential Sources of Employee Leave Rights

- Labor Code § 233: “Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee’s **family member**.”
 - “**Family member**” = child (including biological, adopted, or foster child, stepchild, legal ward, and “in loco parentis,” regardless of age/dependency status); parent (including adoptive, or foster parent, stepparent, or legal guardian, in-laws, and “in loco parentis”); spouse; registered domestic partner; grandparent; grandchild; sibling (Lab. Code § 245.5)
- Personal necessity leave (EC §§ 87784/88207 – also check CBA)
- CFRA expansions effective Jan. 1, 2021:
 - Allow eligible employees to take leave to care for grandparents, grandchildren, and siblings with serious health conditions (formerly limited to spouse or child)
 - Permit eligible employees to take leave to care for a child with a serious health condition regardless of the child’s age or dependency status (formerly limited to minor child or dependent adult child)

American Rescue Plan Act Tax Credits

- **Background: FFCRA & SB 95**
 - FFCRA mandated paid COVID-19 leave during 2020 for private sector employers under 500 employees, and public sector employers (regardless of size).
 - Under FFCRA, **private** sector employers could claim social security tax credits to offset wages paid for qualifying leave, but **public** sector employers could not.
 - FFCRA mandate expired 12/31/2020
 - Federal HR 133 (12/27/2020) extended social security tax credits to **private** employers that voluntarily extended FFCRA leave to 3/31/2020, but tax credit was still unavailable to **public** sector employers.
 - SB 95 (signed 3/19/2021) requires California employers (**public and private**) to give up to 80 hours of paid COVID-19 leave during period 1/1/2021 – 9/30/2021, for reasons similar (but not identical) to FFCRA, plus leave for COVID-19 vaccine appointment or side effects.

American Rescue Plan Act Tax Credits

- **School employers may be able to claim ARPA tax credits for paid leave granted April 1-Sept. 30, 2021, to comply with SB 95 mandate**
 - <https://www.aalrr.com/newsroom-alerts-3847>
 - <https://www.irs.gov/newsroom/employer-tax-credits-for-employee-paid-leave-due-to-covid-19>
- ARPA (signed 3/11/2021) gives Medicare tax credits to offset wages paid for COVID leave during 4/1/2021 – 9/30/2021 for FFCRA-qualifying reasons, plus: obtaining COVID vaccine; vaccine side effects
- IRS guidance 4/21/2021 confirms public sector employers are eligible for ARPA Medicare tax credits
- ARPA/FFCRA reasons and SB 95 reasons mostly overlap, but some language differences, most notably:
 - ARPA/FFCRA: school/childcare closed “for reasons related to COVID-19”
 - SB 95: school/childcare closed “for reasons related to COVID-19 **on the premises**”
- Potential point of interpretation: all or nothing? (IRS guidance does not address this)

Leave as a Reasonable Accommodation

*“When the employee cannot presently perform the essential functions of the job, or otherwise needs time away from the job for treatment and recovery, holding a job open for an employee on a **leave of absence** or extending a leave provided by the CFRA, the FMLA, other leave laws, or an employer's leave plan **may be a reasonable accommodation provided that the leave is likely to be effective in allowing the employee to return to work at the end of the leave, with or without further reasonable accommodation, and does not create an undue hardship for the employer.** When an employee can work with a reasonable accommodation other than a leave of absence, an employer may not require that the employee take a leave of absence. **An employer, however, is not required to provide an indefinite leave of absence as a reasonable accommodation.**”*

-2 CCR § 11068(c)

Leave as a Reasonable Accommodation

- How much leave is considered reasonable?
 - No bright-line rule
- Must the leave be *paid*?
- What if the employee's doctor keeps extending the leave?
- How many extensions have been requested?
- Has the doctor indicated any firm return date?
- Is the employee undergoing *treatment* that should enable him/her to return to work?
- Is it reasonably foreseeable that the employee will be able to return to work?

Cal/OSHA Revised Regulations

Cal/OSHA revised regulations: back to the future

- November 2020: Cal/OSHA adopted Emergency Temporary Standard (ETS) re COVID-19.
- May 20, 2021: Cal/OSHA Board considered proposed amendments to the ETS, but did **not** approve these.
- June 3, 2021: Cal/OSHA Board considered revised proposed amendments to the ETS, **did** approve these, to take effect June 15.
- June 9, 2021: CDPH issues new guidance on face coverings.
- June 9, 2021: Cal/OSHA Board meets again, **rescinds** June 3 revision of ETS.
- June 17, 2021: Cal/OSHA Board met again to approve further changes to ETS; Governor ordered these into effect immediately

Cal/OSHA Revised Regulations

- Amendments to definitions:
 - “Close contact means being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the “high-risk exposure period” defined by this section. This definition applies regardless of the use of face coverings”
 - Face covering: clarifies that “A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.”
 - “Fully vaccinated” means the employer has documented that the person received, at least 14 days prior, either the second dose in a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine.
 - Worksite for the limited purposes of COVID-19 prevention regulations only, means the building, store, facility, agricultural field, or other location where a COVID-19 case was present during the high-risk exposure period. It does not apply to buildings, floors, or other locations of the employer that a COVID-19 case did not enter.

Cal/OSHA Revised Regulations (continued)

- Employees are required to wear face masks:
 - **Indoors and in vehicles** if employees are **not fully vaccinated**
 - As required by orders from the CDPH
- Employees are not required to wear masks:
 - When an employee is **alone** in a room or vehicle
 - While **eating or drinking**, as long as employees are **6 feet apart** and **outside air supply maximized** to the extent feasible
 - Employees exempt due to **medical condition** or disability or are hearing impaired or communicating with an individual that is hearing impaired
- Employers must document vaccination status of employees working indoors without face coverings. Documentation options include: requiring proof of vaccination status or allowing employees to “self-attest” regarding their vaccination status and keeping a record of who self attests.

Cal/OSHA Revised Regulations (continued)

- Employees do not need to be tested for COVID-19 after exposure if:
 - They were fully vaccinated before the close contact and are not experiencing symptoms
 - Within 90 days after an employee tested positive for COVID-19
- ***ETS is not going away.*** E.g., employers are still required to maintain a COVID-19 Safety Plan (although some details of the plan may change per new ETS)
- For more information: <https://www.aalrr.com/newsroom-alerts-3857>
- Don't forget about AB 685 [<https://www.aalrr.com/newsroom-alerts-3786>] and SB 1159 [<https://www.aalrr.com/newsroom-alerts-3790>]

CDPH FACE COVERING GUIDANCE

Cal/OSHA Revised ETS incorporates CDPH orders

“Employers shall provide face coverings and ensure they are worn by employees when required by orders from the CDPH.” 8 C.C.R. 3205(c)(6)(B)

CDPH Face Coverings Q & A (9/1/2021)

- “To achieve universal masking in indoor public settings, CDPH is now **recommending** that fully vaccinated people also mask in indoor public settings across California”
- “There are some situations identified by the CDC where face coverings are **required** for everyone, regardless of vaccination status”
- “[M]asks are required for unvaccinated individuals in indoor public settings and businesses”
- “**Does this guidance apply to colleges and universities?** Yes, all unvaccinated students, staff and faculty are required to wear a mask in all indoor settings [...] Institutions of Higher Education may use the same options as businesses to verify that someone is vaccinated.”
- “[B]oard and commission meetings are indoor public settings, so unvaccinated individuals are required to wear masks”
- “In general, people do not need to wear masks when outdoors”

CDPH Face Coverings Q & A (9/1/2021)

- Options for enforcing face covering requirement for unvaccinated persons:
 - • Provide information to all patrons, guests and attendees regarding vaccination requirements and allow vaccinated individuals to self-attest that they are in compliance prior to entry;
 - • Require proof of vaccination;
 - • Require all patrons to wear masks
- “Businesses may deem a customer, guest or attendee to have self-attested to being vaccinated, or to have met an approved masking exemptions, if the business has prominently displayed signage prior to entry explaining the requirements for unvaccinated individuals to wear a mask and the individual enters the business premises without wearing a mask.”

PRACTICAL CONSIDERATIONS

RESOURCES

EEOC

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

CCCCO

<https://www.cccco.edu/-/media/CCCCO-Website/Files/General-Counsel/2021-01-advisory-mandated-covid-19-vaccinations-a11y.pdf?la=en&hash=80473DB866E97BE0A9650603A745C3FC85871377>

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[Vaccination Guidance for Educational Employers](#)

[CDPH Mandates K12 School Employees Be Vaccinated or Submit to Weekly COVID-19 Testing: Community College Policies Remain Subject to Local Determination](#)

[PERB Determines That Effects of an Employer's Decision to Mandate Flu Vaccine for Faculty and Staff During COVID-19 Pandemic Was Subject to Negotiations - 07.28.21](#)

Practical Considerations & Collective Bargaining

- Can we? – legal, practical
- Should we? – what are policy objectives, what are most effective means
- When should we? — timing issues
- How to verify vaccine status
- Exemption process on grounds of disability, religion
- “Personal belief” exemption?
- Enforcement mechanism: “Or else what?”
 - Employees, applicants, students
 - Legal challenges
- Liability issues
- Collective bargaining issues

Question & Answer Session

Thank You

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Aaron O'Donnell represents California community college districts, universities, and school districts in education and employment-related matters. He provides experienced advice and counsel to clients in all aspects of education and employment law, including compliance with Title IX and related federal and state laws, employee evaluation and discipline, employment discrimination and wrongful termination, labor relations, reductions in force, student discipline, disability accommodation, Brown Act compliance, conflicts of interest, First Amendment and other constitutional rights of students and employees, whistleblower protection, and investigations of employee misconduct. He represents education clients in grievance arbitrations, administrative hearings, and civil litigation in state and federal court.

Events & Speaking Engagements

Mr. O'Donnell is a frequent speaker on education law topics.

New Cal/OSHA COVID-19 Safety Standard: Another Burden for Educational Institutions | At Your Desk, 01.14.2021

Publications

Mr. O'Donnell is a contributor to the firm's school law publications.

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- State Bar of California, Labor and Employment Section, Member
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Joshua Morrison represents California public school districts in all aspects of general education law. His areas of specialty practice include public employee discipline/dismissal, administrative hearings, matters before the Public Employment Relations Board, petitions for writ of mandate, retirement health benefits, PERS/STRS, and school district audit appeals.

Representative Matters

Mr. Morrison achieved favorable results recently in several writ proceedings involving the Los Angeles Community College District, including:

- Obtaining a judgment in favor of the District in a Petition for Writ of Mandate (Californians Aware et al. v. Joint Labor/Management Benefits Committee et al.)
- Obtaining dismissal of a Petition for Writ of Extraordinary Relief filed with the Court of Appeal (Carmen Baprawski v. Public Employment Relations Board et al.).

Mr. Morrison has also litigated writ proceedings for a variety of other clients, including defending a class action Petition for Writ of Mandate which was successfully settled in late 2009 on behalf of Ventura County Community College District (Ventura County Community College Retirees' Association et al. v. Ventura County Community College District et al.).

Firm News

AALRR Announces 2019 Equity and Non-Equity Partners

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Events & Speaking Engagements

Mr. Morrison is a frequent speaker at the firm's Education Law Conference and other firm conferences and events, and has presented to numerous groups, including CSBA, SEAC, and the California Counsel of School Attorneys.

Reopening of Schools: Legal Issues and Concerns

At Your Desk, 03.22.2021

COVID-19: Legislation, Leaves and Vaccines

At Your Desk, 03.18.2021

Publications

Mr. Morrison is a contributor to The Legal Handbook for California School Administrators, a desktop reference guide for public school administrators. In addition, Mr. Morrison is a contributor to the firm's alerts and blog posts.

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Every person deserves careful and thorough legal advice to achieve the best possible outcome for their needs.

Paul McGlocklin represents school districts, community college districts, and county offices of education, focusing on classified and certificated employment matters and other labor and employment issues. He also handles governance and facilities issues administrative law matters such as PERB hearings, arbitrations, and dismissal proceedings, and any subsequent litigation that may arise.

During law school, Mr. McGlocklin participated on the National Environmental Moot Court team, clerked for the Cancer Legal Resource Center, and served as a full-time extern for the Honorable Robert N. Kwan, United States Bankruptcy Court, Central District of California.

Firm News

AALRR Announces 2019 Equity and Non-Equity Partners
01.18.2019

Events & Speaking Engagements

Reopening of Schools: Legal Issues and Concerns
At Your Desk, 03.22.2021

COVID-19: Legislation, Leaves and Vaccines
At Your Desk, 03.18.2021

Publications

Mr. McGlocklin contributes to the firm's publications and blogs.

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PRACTICE AREAS

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Labor & Employment Law
Litigation
Workplace Training