

# SCHOOL AND COLLEGE LEGAL SERVICES of California

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## LEGAL UPDATE

February 3, 2009

**To: Superintendents, Member School Districts (K-12)**

**From: Loren Soukup, Schools Legal Counsel**

**Subject: Timing of Final Wage Payments**  
**Memo No. 05-2009**

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There has been long standing confusion concerning the timing requirements of final wage payments for school agency employees and we continue to regularly receive questions from clients on this issue. Specifically, there has been uncertainty among school agencies as to whether Labor Code sections 201 through 203 apply to school districts and county offices of education. These sections set forth final payment requirements, including the requirement that the payment of all earned and unpaid wages be provided immediately upon discharge. To provide clarification regarding this issue to our clients, we are confirming our view that the Labor Code sections governing final payment of wages do not apply to school agencies.

Labor Code section 220(b) specifically exempts employees directly employed by any county, incorporated city, or town or other municipal corporation from the final payment of wages requirements. In an attempt to define the term "other municipal corporation", the Court of Appeal in *Division of Labor Law Enforcement v. El Camino Hospital District*<sup>1</sup>, specifically referred to a school district as an example of a quasi-municipal corporation that was intended to be included in the term "other municipal corporation". In a subsequent case, *Kistler v. Redwoods Community College District*<sup>2</sup>, the Court of Appeal expressly held that a community college district was an "other municipal corporation" for purposes of Labor Code section 220.

In 2000 Labor Code section 220 was amended by Assembly Bill 2410. In reviewing the legislative history, it is clear that the amendment was designed to remove state employees from the exemptions of Labor Code 220 but not employees of any other public agency. Since the

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<sup>1</sup> *Division of Labor Law Enforcement v. El Camino Hospital District* (1970) 8 Cal.App.3d Supp. 30

<sup>2</sup> *Kistler v. Redwoods Community College District* (1993) 15 Cal.App.4<sup>th</sup> 1326

*Kistler* decision was decided 7 years earlier (1993), the Legislature is presumed under the law to have known the appellate courts' prior interpretation of Section 220 - that school agencies were considered "other municipal corporations" for purposes of the Section 220 exemption. If the Legislature had intended to impose additional burdens on school agencies concerning final payments it would have clarified this in its enactment of AB 2410 in 2000. This actually would have been a new state-mandated cost, for which the state would have been required to reimburse local agencies, but there is no reference in AB 2410 to any state-mandated costs. Accordingly, the AB 2410 amendments did not affect school agencies or their exemption from the final wage payment requirement.

In light of the above, school agencies are not required to comply with the Labor Code's requirements concerning the final payment of wages<sup>3</sup>. However, it is recommended that school agencies issue final paychecks to their employees shortly after the last day of work or at least no later than the next regularly scheduled payday.

Please contact any of our attorneys or Bob Latchaw if you have any questions regarding this issue.

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<sup>3</sup> Labor Code sections 201-203