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LEGAL UPDATE

February 25, 2010

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

From: Loren Soukup, Schools Legal Counsel *LS*

Subject: **Mandated Reporting of Student Offenses to Local Law Enforcement**
Memo No.: 07-2010

On October 11, 2009, the Governor signed into law AB 1390, which expanded the types of student offenses under Education Code section 48902 that school principals or principal designees are required to report to local law enforcement. The failure to make a required report is an infraction punishable by a fine of up to \$500, to be paid by the principal or principal's designee who is responsible for making the report.

Pursuant to Section 48902, a school principal or designee is required to notify the appropriate local law enforcement, prior to the suspension or expulsion of any student, for any of the following offenses¹:

- Assault with a firearm;
- Assault with a deadly weapon or instrument other than a firearm;
- Assault likely to produce great bodily injury.²

In addition, within one school day after suspension or expulsion of a student, a school principal or designee is required to notify the appropriate law enforcement authority of any of the following acts:

¹ California Penal Code section 245

² "Great bodily injury" refers to significant or substantial bodily injury or damage; it does not refer to trivial or insignificant injury or moderate harm (CA CALJIC 9.02).

- Possession, use, sale, furnishing, or being under the influence of a controlled substance, alcohol, or intoxicant (Education Code section 48900(c)); or
- Offering, arranging, or negotiating the sale of a controlled substance, alcohol or intoxicant or the furnishing of a liquid, substance or material that is represented as a controlled substance, alcohol, or intoxicant (Education Code section 48900(d); 48902(c)).

School principals or designees must also notify the appropriate law enforcement authorities of any acts of a student that may involve the possession or sale of narcotics³, or a violation of Penal Code section 626.9 (Gun-Free School Zone Act), or section 626.10 (possessing certain knives, blades, box cutters, tasers, stun guns, pellet guns, BB guns or spot marker gun).

Section 48902 has been amended to now require the reporting of the following mandatory expulsion offenses committed by either students or non-students on school grounds:

- Possession, selling or furnishing a firearm; or
- Possession of an explosive.

The school principal or designee must report such acts to the city police or county sheriff with jurisdiction over the school and the school security department/school police department, as applicable.

Districts are encouraged to review their current board policies and regulations to ensure compliance with these new requirements. Also it is important to determine the contact person at the appropriate police/sheriff department who is to receive such reports. Please contact any of our attorneys if you have questions regarding this issue.

³ "Narcotic drug" means any of the following:

(a) Opium and opiate; (b) Opium poppy and poppy straw; (c) Coca leaves ; (d) Cocaine; (e) Ecgonine; and (f) Acetylfentanyl
(Health & Safety Code section 11019)