

# HK School Law Monthly Newsletter



Greetings!

Thank you for your interest in the HK School Law Monthly Newsletter. We look forward to hearing from you soon!

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April 2015 | Issue 20

## QUICK LINKS

### **Public Advocates Revisits Charter School Parent Participation Policies**

You may have recently seen this notice from CCSA regarding the list of charter schools whose parent participation policies have been deemed “questionable” or “illegal” by Public Advocates. If your school wishes to challenge your placement on this list, please visit the [CCSA web site](#) to learn more or visit the [Public Advocates web site](#) to learn more.

### **US Supreme Court Ruling Widens Scope of Pregnancy Accommodations**

Recently, the [US Supreme Court gave a former UPS driver another chance](#) to prove her claim of discrimination after the company did not offer her lighter duty when she was pregnant. UPS contended that their policy for drivers is that they must be able to lift up to 70 pounds; the UPS driver presented a doctor’s note advising that she could not lift more than 20 pounds, and UPS did not provide accommodations. While the UPS driver lost two rounds in lower court, the Supreme Court directed the lower court to re-examine the driver’s case with a more accepting view of the discrimination claim. Bottom line? In situations involving pregnancy accommodations, consult with legal counsel to determine if your plan for accommodations will satisfy the law.

### **DOJ Information Bulletin Regarding Criminal Record Checks**

For those of you who missed this important alert, effective January 1, 2013, Assembly Bill 2343 amended Cal. Penal Code section 11105 pertaining to the release of Criminal Offender Record Information. Now, any authorized agency, organization or individual must expeditiously furnish a copy of the CORI to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision. The copy can be delivered to the last known contact information provided by the applicant if the copy cannot be delivered in person.

### **Online Training Opportunities – [www.schoollawtraining.com](http://www.schoollawtraining.com)**

Does your board need Brown Act training to ensure legal compliance and strengthen

their operational abilities? At [www.schoolawtraining.com](http://www.schoolawtraining.com), your board members can get in on free Brown Act training. Find out more today by visiting the site!

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## NEWSLETTER

### **AB 1667 AND TB RISK ASSESSMENTS**

Effective January 1, 2015, Assembly Bill 1667 (“AB 1667”) replaces the universal tuberculosis (TB) testing for private, parochial, public K-12 school and nursery school employees and volunteers with a TB risk assessment questionnaire. The new law states that if based on the assessment risk factors are identified, TB testing and examination is then required in order to determine that the person is free of infectious tuberculosis. This is a more cost-effective method, while still protecting the state’s teachers, volunteers, school employees, and children from tuberculosis.

Interestingly, the legislature did not expressly include charter schools in the law, which means that charters are exempt. The oversight is pretty glaring, especially because two sections later in the law regarding epi-pens [see the HK School Law newsletter for February 2015] does include charters. However, despite the fact AB 1667 does not expressly include Charters, we recommend charters follow the new requirements as it likely will not be long until the law is changed to require charter compliance. In any event, the new law provides a simpler, more efficient process.

#### **WHAT YOU NEED TO DO**

We recommend first adopting a revised TB policy. Second, education of staff and of volunteers on the requirements of the new law is essential. Newly hired employees and volunteers should be advised that they must either provide proof of a valid negative TB skin test or fill out the risk assessment, either of which can be performed by a nurse practitioner and/or registered nurse. Existing staff should be advised that they are only required to renew every four years. The school is not required to pay for either option.

### **AB 1442 AND STUDENT SOCIAL MEDIA POLICY**

The increased and prevalent usage of social-media platforms such as Facebook, Twitter, and Instagram for nefarious purposes prompted school districts, county offices and charter schools to use those same platforms for data collection and monitoring. The collecting of social-media information from students and others was being done in the hopes of identifying and preventing bullying, teen suicide and school violence, among other things. However, such collection practices fuelled concerns from parents about how to protect their children’s privacy.

The data collected ranges from statements and opinions, to personal photos, and even videos posted by teens online (or any other member of the public who mentions a school in a post). While the data collection serves a noble purpose, laws did not address how long the data would be kept, when it should be destroyed, and whether parents were to be made aware of the collection policies.

Effective January 1, 2015, AB 1442 introduces a number of requirements and restrictions that school districts, county offices and charter schools need to be aware of. Specifically, districts may only gather data that directly relates to school or pupil safety, and must delete that data after a student turns 18 or leaves the district. In addition, districts must provide access to any stored data to the student and his or her parents. If an agency is considering this kind of data collection, both pupils and parents must be notified of the program and be given the opportunity to comment on it at a regularly scheduled public meeting. If the program is implemented, notice must also be provided to all pupils and parents subject to the program, along with instructions describing how the data can be accessed or corrected.

Finally, if a district has outsourced social media data collection to a third party, the contract between the district and third party must contain the same restrictions. That is, the data collected must relate to school or pupil safety, and the third party must delete the data if the child turns 18 or leaves the district. The contract must also require the third party to delete any data at the conclusion of the contract, as well as prohibit the sale of any collected information.

The legislative intent behind AB 1442 is to ensure that parents are informed when their children's social-media activities are being monitored, that taxpayer dollars are used responsibly, and collected information about students' social-media activities is protected.

## **WHAT YOU NEED TO DO**

We recommend adopting a social media policy immediately and educating staff on the requirements of the new law. [Click here to view our sample policy](#) to get started.

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*Hansberger & Klein, LLP is a law firm representing public charter schools. This newsletter is not intended to be legal advice. If you are seeking legal advice, please contact us or your attorney for guidance. We look forward to working with you!*

★ **This is a Test Email only.**

This message was sent for the sole purpose of testing a draft message.