

April 1, 2015

Carol Lear, Heidi Alder, and Erin Preston, the Education Law Group of Lear & Lear, spent the 2015 Legislative Session tracking all legislation relevant to Local Education Agencies (LEAs). We created a tracking sheet, attended committee meetings, and were involved with legislators on the development of several bills. From the policies to revisit to legislation Q&A, we hope this edition of our newsletter will be useful to you.

Inside this issue:

Top 10 Immediate Concerns for Superintendents **1, 2**

HR Directors, This is For You **2**

Legislation by the Numbers **3**

Policies, Policies, and More Policies **3**

Q&A **4**

# Education Law Newsletter 2015 Legislative Update

## Top Ten Immediate Concerns for Superintendents

As the 2015 General Legislative Session concludes, schools and districts should be reviewing their policies and practices in order to ensure compliance with the soon-to-be-laws. As is true every year, several changes to school policies and practices are mandated in this year's slew of education-related bills. While some of those changes are not so immediate, other changes are. In no particular order of immediacy, the following list presents the "Top 10" most immediate changes an LEA should be aware of.

1. **Standardized testing "opt-out" changes.** SB204 provides that a parent may opt his/her student out of specific testing to include any "summative, interim, or formative test that is not locally developed" or any test that is federally or state mandated. The bill also prohibits LEAs from requiring a parent meeting to discuss

the opt out options and LEAs may not require a certain "opt-out" form to be filled out. Once a student has opted out, the opt out remains in effect until the student opts back in or until he is no longer enrolled at the LEA.

2. **Breastfeeding accommodations.** HB242 requires a public employer to provide reasonable breaks for a public employee who is breastfeeding, access to a room with privacy, a refrigerator for breastfeeding purposes, and the adoption of policies to support breastfeeding. Also, the bill prohibits a public employer from discriminating against an employee who is breastfeeding in the workplace.
3. **Mandatory Reference Checks.** HB345 requires every public school to obtain



obtain a reference and the disciplinary file from previous employers for potential employees prior to hiring.

4. **Suicide Prevention Amendments.** HB364 provides money for the inclusion of bullying and cyberbullying in the parent seminars on suicide prevention and further clarifies that LEAs need never sponsor more than 3 parent seminars a year.

Cont. on page 2.



*HR Directors did not escape the onslaught of school-related legislation this year.*



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## **HR Directors—This is for You!**

There were plenty of bills this year for Human Resource Directors. The following is a sampling of bills that impact you and for which policies may need to be amended or re-written.

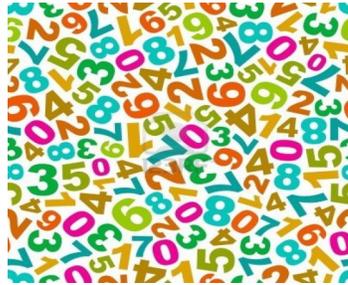
- **HB73 Nepotism Amendments:** now includes “grandchild” and “grandparent” in nepotism considerations.
- **HB105 Antidiscrimination Modifications:** may not discrimination in your hiring practices on the basis of breastfeeding or medical conditions related to breastfeeding
- **HB118 Public Education Human Resource Management Act Revisions:** addresses dismissal procedures to allow for dismissal without a plan of assistance for a career employee who exhibits both unsatisfactory performance *and* misconduct
- **HB203 Teacher Salary Supplement Program:** adds computer science teachers to the list of “eligible teachers” for the Teacher Salary Supplement Program”
- **HB124 Background Check Amendments:** allows LEAs to register fingerprints of an employee which will be kept during the duration of the person’s employment, eliminating the need for employees to have new background checks every few years
- **HB345 Abuse Policy for Educators:** requires hiring employers to obtain references and the disciplinary file from prior employers of potential employees prior to hiring.
- **SB272 Payment of Wages Amendment:** requires that an employer who terminates an employee must either mail the last check within 24 hours or make a direct deposit.

## **Top 10, Cont.**

5. **Civics Education Amendment.** SB60 requires all students to take and pass with a 70% a basic civics test, or an alternative assessment as determined by the State Board in order to graduate, effective for all students graduating after Jan. 1, 2016.
6. **Government Records and Management Act.** SB157 makes changes to GRAMA appeals and mandates a certain make-up of an appeals board created by a political subdivision like a school or district.
7. **School Safety and Crisis Line.** SB175 requires LEAs to revise their conduct and disciplinary policies to include procedures for responding to reports received through a statewide School Safety and Crisis hotline; LEAs must inform parents, students, and school personnel about the Crisis line.
8. **Carson Smith Scholarship Amendments.** SB270 requires LEAs to send notice of availability of special education scholarships to parents with children as young as age 3.
9. **Student Data Breach Requirements.** HB163 requires LEAs to notify parents or release of personally identifiable student information due to a breach.
10. **Public School Dropout Recovery.** SB 116 requires LEAs to review how they recruit dropouts *back* to public school and how LEAs provide services for dropouts and fund those services.

## Legislation by the Numbers

- ⇒ 146 education-related bills introduced
- ⇒ 81 education-related bills passed
- ⇒ 7 bills requiring a comprehensive study or task force
- ⇒ 5 bills related to changing the method of electing the State School Board
- ⇒ 0 bills passed related to changing the method of electing State School Board members.
- ⇒ 28 bills requiring the State Board to write rules either explicitly or implicitly
- ⇒ 4 bills related to retirement benefits or benefits available post retirement
- ⇒ 2 technology-related bills
- ⇒ 16 bills that appropriate funds or significantly affect current funding ex-



## Policies, Policies, and More Policies...

As with each legislative session, many bills will require LEAs to draft **new policies** or **revise current policies**, either explicitly or implicitly. The following policies (and companion bills) will require review and possibly changes:

### Employment policies

- LEA hiring pertaining to nepotism (HB73)
- Employee discrimination (HB105, HB242, SB296)
- Employment termination (HB118, SB272)
- Employee background checks (HB124)
- Obtaining references for prospective employees (HB345)

Board meetings and location of meetings (HB118)

### Bullying policies

- Parent notification (HB128)
- Conduct and discipline policy to include information about the Crisis Line (SB175)

### Retirement policies

- Postemployment health benefits insurance benefits (HB208)
- Other retirement issues (HB12, HB347, and SB11)

**Instruction on human sexuality policy** (HB447)

**GRAMA policy** (SB157)

**Testing opt-out policies** (SB204)

**Attendance policy** (SB204)

**Student data policy**, to include notice to parents in the event of a breach (HB163)

**Acceptable Use Policy**, as it relates to filtering and student use (HB213)

Any policy reference to **“behavior testing and tracking”** (SB38)

Administration of medication (**epinephrine**) to students (SB147)

*The legislature introduced and passed more bills this year than in any other general legislative session.*





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Carol Lear, Heidi Alder, and Erin Preston are pleased to announce their affiliation as of counsel with Lear & Lear, LLP to provide Education Law services to school districts, charter schools and other public education-related entities. Our services include:

- Prompt and cost effect responses to everyday legal questions and issues
- LEA/school policy and contract review
- School facilities, construction and financing issues
- Hearing officer services
- Employee questions and issues
- Advice and support for GRAMA and records management requests



## Legislative Q&A



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**Q:** How soon must superintendents initiate policy and practices changes and when does the money come?

**A:** Superintendents and LEAs can tell when programs become effective by checking the effective date on passed bills. Most new (or expanded) programs become effective for the 2015-16 school year. New programs require adequate LEA implementation policies. Many new programs require the State Board of Education

to write rules for programs. They also require funds, appropriated by the Legislature, to be distributed to LEAs by the State Board. Most often, the funds for new or expanded programs should follow the rules and come at the beginning of the fiscal year.

**Q:** What happens if the Governor vetoes an education bill?

**A:** The bill does not go into effect. The media will give LEAs a good sense if the Legis-

lature intends to override the Governor's veto. Usually that does not happen.

**Q:** If Board rules are required by a bill, when can LEAs expect to see them?

**A:** Many new legislative programs require Board rules—for the funds to flow to LEAs, for grants to be awarded, for LEAs to know about timelines and details of programs. LEAs can learn about rulemaking timelines from USOE staff.