

# CLIENT NEWS BRIEF

## California Passes New Law to Increase Protection and Safety of Special Education Students in Nonpublic Schools

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Governor Gavin Newsom signed Assembly Bill (AB) 1172 this fall, which imposes additional requirements upon nonpublic schools (NPSs), as well as the local educational agencies (LEAs) that place students in NPSs, in order to increase the safety and protection of students in NPS placements. This legislation was passed following the high profile death of a 13-year-old special education student, who passed away after being placed in a prone restraint at an NPS.

AB 1172 places new monitoring requirements on LEAs that enter into contracts with NPSs, and places on NPSs, new documentation requirements related to administrator and staff training, as well as new notification requirements for any student-involved incident involving law enforcement. Most of the new requirements imposed by AB 1172 become effective beginning with the 2020-21 school year.

More specifically, AB 1172 amends the Education Code to include the following:

### **New Requirements Placed on LEAs**

Beginning with the 2020-21 school year:

- LEAs that enter into master contracts with NPSs must conduct an onsite visit at the NPS before placing a student there if the LEA does not have any students enrolled at the school at the time of placement.
- LEAs must conduct at least one onsite monitoring visit each school year at each NPS in which the LEA has a student attending and with which it maintains a master contract. The monitoring visit should include, but is not limited to: a review of services provided to the student through the individual service agreement between the LEA and the NPS; a review of the progress the student is making towards his/her goals as set forth in their individualized education program and behavioral intervention plan, if applicable; an observation of the student during instruction; and a walkthrough of the facility. Additionally, LEAs will need to report the findings resulting from their monitoring visits to the California Department of Education (CDE) within 60 calendar days of each onsite monitoring visit.

### **New Requirements Placed on NPS Sites**

Beginning with the 2020-21 school year:

- Each NPS will need to provide documentation that it will train staff who will have contact or interaction with students during the school day in the use of evidence-based practices and interventions specific to the unique behavioral needs of the NPS's student population. The training will need to be provided within 30 days of employment to new staff, and annually to existing staff.

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- For an NPS to be certified by the CDE, it will need to provide documentation that its administrator holds or is in the process of obtaining one of the special credentials or licenses specified in the law.
- NPSs serving students with significant behavioral needs or students on behavioral intervention plans, must certify in writing that they have an individual onsite during school hours who is qualified, and responsible for the design, planning, and implementation of behavioral interventions.
- NPSs must notify the CDE and the LEA of any student-involved incident in which law enforcement was contacted, in writing, no later than one business day after the incident occurred.

AB 1172 also allows the CDE to immediately suspend or revoke the certification of an NPS, if an investigation conducted by CDE results in a finding that student health or safety has been compromised, or is in danger of being compromised, at the NPS.

## Takeaways

According to the Legislature, AB 1172 could result in unknown but potentially significant costs to LEAs in conducting the onsite visits of NPSs and the reporting of findings resulting from those visits to the CDE within the specified timeline. School districts should consider identifying or creating a position to conduct the NPS onsite visits, report to the CDE on those visits, and ensure NPS certification when entering into a master contract with an NPS. Training responsible staff on AB 1172 and the requirements identified in the Education Code is also recommended. School districts are also encouraged to consult with counsel regarding these new requirements, if needed.

For additional information regarding AB 1172, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).