



Client Alert

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LAW PROTECTS EMPLOYEES FROM DISCIPLINE FOR ACTING TO PROTECT STUDENT FREE SPEECH AND PRESS RIGHTS

In September 2008, the Governor signed into law Senate Bill 1370 which prohibits schools from dismissing, suspending, disciplining, reassigning, transferring, or otherwise retaliating against an employee solely for acting to protect a student engaged in conduct authorized by State law or refusing to infringe upon conduct that is protected by the First Amendment of the U.S. Constitution or by the Article 1, Section 2 of the California Constitution.

California Education Code section 48907 grants to public school pupils the right to exercise freedom of speech and of the press, and authorizes school officials to limit student expression only in specific circumstances. The First Amendment of the U.S. Constitution and Article 1, Section 2 of the California Constitution also guarantee freedom of speech and of the press. Section 48970 provides greater protection to students than have federal court decisions interpreting students' constitutional rights.

Senate Bill 1370, initially called the "Journalism Teacher Protection Act," was introduced in response to disciplinary action against teachers and advisors for content published in student newspapers. As enacted, the law applies to all school employees, not just journalism teachers and advisors.

While this change may have greater impact on districts with high schools, the law applies to employees of all public schools, California Community Colleges, the California State University, and the University of California.

Education Code sections 48907, 48950, and 66301 now include the following language:

An employee shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a pupil engaged in the conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment of the United States Constitution, or Section 2 of Article I of the California Constitution.

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If you have any questions regarding this change in the law, please contact this office.

— Carol J. Grogan, Counsel

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