



LAW UPDATE EDUCATION

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AB 119 AND NOW THE PADDLE!

Governor Newsom recently signed **SB 270** which provides for monetary penalties for certain violations of Government Code section 3555, et. seq. (AB 119). As it relates to public school district employers, AB 119 requires that the exclusive representative be provided with the “name, job title, department, work location, work, home, and personal cellular telephone numbers, personal email addresses on file with the employer, and home address” of new bargaining unit employees within 30 days of hire and of all bargaining unit employees every 120 days. (Govt. Code §3558.) Most public school employers entered into memorandum of understanding (MOUs) with their exclusive representative(s) to comply with AB 119. Some school districts have since folded those MOUs into their collective bargaining agreements.

If you recall, AB 119 was enacted in 2017 in anticipation of the successful challenge to mandatory dues deduction (Janus). SB 270 provides a Public Employment Relations Board (PERB) option for enforcement of AB 119. A PERB unfair practice charge can be filed by an exclusive representative after the following:

- The exclusive representative provides the public school employer with written notice (with facts and theories in support) of an alleged violation of AB 119; and
- The public school employer fails to remedy the violation.

If the alleged violation is an inaccurate or incomplete list of employees, the public school employer has 20 calendar days to remedy the alleged violation by providing accurate information. The public school employer is required to provide updates during the 20-day period to the exclusive representative on the actions being taken to remedy the violation. A public school employer is entitled to remedy violations no more than three times in any 12-month period.

The opportunity to remedy the violation does not apply to the failure to timely provide a list of new employees or to provide a list of all bargaining unit employees.

The exclusive representative may file an unfair practice charge for violations of Government Code section 3558. In addition to other remedies, the public school employer is

subject to a civil penalty in an amount not to exceed \$10,000 as determined by PERB. Factors to be considered by PERB in assessing the civil penalty (to be paid to the General Fund) include:

- The public school employer's annual budget;
- The severity of the violations; and
- History of prior violations.

Lastly, PERB "shall" award attorney fees and costs to the prevailing party from the time the proceedings commence with the Division of Administrative Law (after a complaint is issued). Should an action be filed in superior court by PERB to enforce its order, the court shall award PERB its attorney fees and costs if it is the prevailing party.

PERB remedies are effective July 1, 2022.

In light of **SB 270**, it is time to review compliance with AB 119 requirements. There is time to remedy any current inconsistencies and be prepared for July 1, 2022.

Please contact our office should you have any follow up questions or need assistance.

- Timothy L. Salazar

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