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LEGAL UPDATE

October 1, 2018

To: Superintendents, Member School Districts (K-12) with Merit Systems

From: Jennifer Henry, Assistant General Counsel *J.H.*

Subject: Governor Brown Signs Bill Making Merit System Community Representatives Part of Classified Service (AB 2261)
Memo No. 24-2018

Governor Jerry Brown signed Assembly Bill (“AB”) 2261 on September 7, 2018, which makes community representatives in advisory or consulting capacities in merit system districts no longer exempt from classified service. Existing law in merit system districts made community representatives exempt from classified service. A community service representative is defined as a worker who typically serves in advisory or consulting capacities for not more than 90 working days, or a total of 720 hours, in a fiscal year.

AB 2261 repeals Education Code Section 45258, which was created in 1971. Per the Senate Floor Analyses of AB 2261 dated August 18, 2018, Section 45258 was enacted at a time when advisory community representatives were considered to be short-term positions “and the workers not skilled enough to be considered classified employees.”

The bill’s passage was supported by the Service Employees International Union (“SEIU”), who wrote in support of AB 2261 that “after more than forty years we believe it is more than appropriate to recognize these workers as permanent employees.” The bill’s author, 43rd district Assemblywoman Laura Friedman, wrote that community representatives deserve the same benefits as other classified employees, and school districts “should have the flexibility to employ them for as many hours as they deem fit.”

Per the terms of AB 2261, if the Commission on State Mandates determines that this bill results in mandated costs, such as increased administrative, payroll, retirement benefits, and related costs due to this position no longer being “at will,” merit districts will be reimbursed by the state.



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