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LEGAL UPDATE

December 13, 2018

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

From: Steven P. Reiner *SPR*
Associate General Counsel

Subject: Cal/OSHA Emergency Regulation Reporting Requirements
Memo No. 41-2018

In November of 2018, Cal/OSHA passed emergency regulations requiring certain employers that perform “school and employee bus transportation services” to electronically submit Form 300A regarding work-related injuries and illnesses to the federal OSHA.¹

The purpose of the emergency regulation is to conform California’s record keeping requirements to the recently updated federal OSHA program.² The Department of Industrial Relations (“DIR”) for the State of California issued a News Release outlining the new requirements.³

DIR states the following employers must electronically submit Form 300A covering calendar year 2017 by December 31, 2018:

- All employers with 250 or more employees, unless specifically exempted by section [14300.2](#) of Title 8 of California Code of Regulations.
- Employers with 20 to 249 employees in the specific industries listed in [Appendix H](#) of the emergency regulations.

The exemption under section 14300.2 includes “Elementary and Secondary Schools” and “Junior Colleges,” along with “Other Schools of Instruction” in Appendix A to section 14300.2. However, Appendix H of the emergency regulations specifically includes “School and employee bus transportation” industries.

¹ The emergency regulations amend sections 14300.35 and 14300.41 of Title 8 of the California Code of Regulations, which can be found here: <https://www.dir.ca.gov/dosh/doshreg/Recording-and-Reporting/Text-of-Amended-Regulation-Revised.pdf>

² <https://www.osha.gov/news/newsreleases/trade/04302018>

³ <https://www.dir.ca.gov/DIRNews/2018/2018-90.pdf>



Therefore, if your district operates school bus transportation services, you may need to submit Form 300A if you had a qualifying number of employees in your transportation department for the 2017 calendar year. Your district may also need to submit Form 300A if it has been notified by Cal/OSHA of the need to do so.

How does a district determine the number of employees it has for purposes of filing Form 300A?

Only that portion of a district's "school and employee bus transportation" operation should be counted in determining the number of employees it has for Form 300A filing purposes.⁴ If there were between 20 to 249 people employed within the district's transportation department in the 2017 calendar year, Form 300A should be electronically submitted. If a district had between 1-19 employees in its transportation department for the 2017 calendar year, Form 300A should not be submitted.

Do part-time, seasonal, or temporary workers count as employees?

Yes. Every individual employed in the transportation department during the calendar year counts.

How do I electronically file Form 300A?

Detailed instructions for filing and submitting the Form 300A can be found [here](#).⁵ Note that your workers' compensation insurance carrier will have the data needed to submit the form; however, it is the responsibility of the district to submit the information.

What if our transportation department did not have any work related illnesses or injuries in 2017?

Neither Cal/OSHA nor the U.S. Department of Labor (Federal OSHA) answer this question directly on their websites, but sample instructions indicate an option to insert that there were no reported workplace injuries or accidents. Therefore, we recommend filing Form 300A if you are otherwise required to even if you did not have any work related injuries or illnesses in the 2017 calendar year.

What if our district eliminated our transportation department in 2017?

If a district permanently closed their transportation department in 2017, there is no need to electronically submit Form 300A for workplace injury and illness data.

How frequently and by what date must the district electronically file Form 300A?

Annual filings are required if your district qualifies or has been given notice by Cal/OSHA. If required, Form 300A for the 2017 calendar year must be submitted by December 31, 2018.

⁴ California Code of Regulations section [14300.2\(b\)\(1\)](#); U.S. Department of Labor [FAQs](#)

⁵ <https://www.osha.gov/injuryreporting/index.html>



Beginning in 2019, districts that are required to submit Form 300A data must submit all of the required information by March 2 of the year after the calendar year covered by the form. For example, information for the 2018 calendar year must be submitted by March 2, 2019.

What is the North American Industry Classification System (“NAICS”) code needed to file Form 300A?

For those districts required to file an electronic Form 300A, the NAICS code for “School and employee bus transportation” is 4854.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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