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LEGAL UPDATE

June 23, 2021

To: Superintendents/Presidents/Chancellors, Member Community College Districts

From: Carl D. Corbin, General Counsel *CDC*
Damara L. Moore, Senior Associate General Counsel *DM*

Subject: Juneteenth becomes the 12th Federal Holiday – Implications for CCDs
Memo No. 11-2021(CC)

Our office sent an email to clients on June 17, 2021, expressing our opinion that Juneteenth is now a school holiday for June 19, 2021, which as a Saturday, is celebrated on Friday, June 18, 2021.

We understand that the short notice of our email, necessitated by the short notice of the announced holiday, caused some confusion and resulted in some Community College Districts (“CCDs”) deciding to close on Friday, June 18, 2021, or deciding to close on Monday, June 21, 2021, or deciding not to close at all. There was similar confusion when President George H.W. Bush issued Presidential Proclamation 6257 on March 7, 1991, which proclaimed three “National Days of Thanksgiving” on April 5-7, 1991. Ultimate resolution of this confusion required a decision by the California Supreme Court.¹

Our public law office strives to provide reliable, consistent, and prudent legal guidance to our clients. We are aware that other law firms and organizations have expressed an opinion contrary to ours, but for the reasons discussed below, we continue to stand by our original opinion that June 18, 2021, was a college holiday.

¹ *Cal. Sch. Emps. Assn. v. Governing Bd. of the Marin Cmty. Coll. Dist.* (1994) 8 Cal.4th 333.



On June 17, 2021, President Biden signed into law S.475² that Juneteenth, which falls this year on Saturday, June 19, is a legal federal holiday.³ The federal statute was amended to state,

The following are legal public holidays:

New Year's Day, January 1.

Birthday of Martin Luther King, Jr., the third Monday in January.

Washington's Birthday, the third Monday in February.

Memorial Day, the last Monday in May.

Juneteenth National Independence Day, June 19.

Independence Day, July 4.

Labor Day, the first Monday in September.

Columbus Day, the second Monday in October.

Veterans Day, November 11.

Thanksgiving Day, the fourth Thursday in November.

Christmas Day, December 25.⁴

The addition of Juneteenth as a national holiday became effective immediately.⁵

California Education Code Section 79020 addresses holidays for CCDs and provides:

Except as otherwise provided the community colleges shall continue in session or close on specified holidays as follows:...

(d) The community colleges shall close on every day appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday.

Education Code Section 79020 also addresses the issue of when a holiday falls on the weekend:

(g) When any of the holidays on which the schools would be closed, except Lincoln Day, fall on Saturday, the community colleges shall close on the preceding Friday, and that Friday shall be declared a state holiday.

When examining the definition of “appointment” of a school holiday, the California Supreme Court found:

To determine whether the “appointment” of a holiday has occurred within the meaning of the Education Code, and more specifically, whether the President's proclamation contemplated a special national holiday, we must first inquire

² Juneteenth National Independence Day Act, Pub. L. No. 117-17 (2021), available at <https://www.congress.gov/bill/117th-congress/senate-bill/475/text>.

³ 5 U.S.C § 6103.

⁴ *Id.* (Emphasis added).

⁵ See H. Doc. 110-49, 110th Cong., at 51 (2007) known as “How our Laws Are Made”, available at <https://www.govinfo.gov/content/pkg/CDOC-110hdoc49/pdf/CDOC-110hdoc49.pdf> (“A bill becomes law on the date of approval or passage over the President’s veto, unless it expressly provides a different effective date.”) This bill did not have a different effective date and is therefore effective upon President Biden’s signing.



whether the President has declared a corresponding federal holiday. This threshold requirement will clearly distinguish at the outset those presidential proclamations of a purely ceremonial character from those that were intended to designate a national holiday. It also avoids the anomalous situation created in this case, in which a presidential proclamation designating ‘National Days of Thanksgiving’ is asserted to be the source of a paid holiday for California’s classified employees but which did not declare or result in a holiday for federal employees.⁶

This case, brought by the California School Employees Association (“CSEA”), examined whether classified employees were due holiday pay because of a presidential *proclamation* – not a statutory federal holiday. The California Supreme Court addressed this argument as follows:

The intent to designate a national holiday must also be apparent in the language of the proclamation, executive order, or other official announcement itself. [Citation omitted.] In particular, we must examine the words and the tone of the President’s entire announcement, and the manner in which the President directs or recommends that the designated day be observed. It is appropriate to consider the language of the President’s proclamation or similar announcement, because from such an official decree the Legislature intended legal significance to arise.⁷

In the current situation, we have a clear law, passed by both the House and the Senate and signed by the President, stating Juneteenth is a federal holiday, as with Memorial Day, Christmas, and the like. Some legal opinions we have seen from other law firms and organizations have focused on the fact that because Juneteenth was established as a federal holiday through an act of Congress and signed into law by the President that the language in Education Code Section 79020 is not applicable.

However, President Biden did in fact issue on June 18, 2021, “A proclamation on Juneteenth Day of Observance, 2021.”⁸ This Proclamation provides in part:

...And that is why I am proud to have consecrated Juneteenth as our newest national holiday.

...

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim June 19, 2021, as Juneteenth Day of Observance. I call upon the people of the United States to acknowledge and celebrate the end of the Civil War and the emancipation of Black Americans, and commit together to eradicate systemic racism that still undermines our founding ideals and collective prosperity.

⁶ *Cal. Sch. Emps. Assn.*, 8 Cal.4th at 342.

⁷ *Id.* at 343.

⁸ <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/18/a-proclamation-on-juneteenth-day-of-observance-2021/>.



The Proclamation issued by President Biden, associated with S.475, meets the language of Education Code Section 79020(d), “the community colleges shall close on every day appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday,” and meets the standard adopted by the California Supreme Court that “the intent to designate a national holiday must also be apparent in the language of the proclamation, executive order, or other official announcement itself.”

In summary, based on the above, our office continues to believe that Friday, June 18, 2021, was a holiday for which CCDs were required to close. We are hopeful that the California Legislature takes action to clarify the status of Juneteenth through amending Education Code Sections 37220 and 45203 for K-12 schools and Education Code Sections 79020 and 88203 for community colleges.

Implications for Classified Employees

As described above, the recognition of Juneteenth means that June 18, 2021, is a paid holiday for classified employees if they work, or they may receive compensation time:

All probationary or permanent employees who are part of the classified service shall be entitled to the following paid holidays if they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday. . . . every day appointed by the President. . . . for a public fast, thanksgiving or holiday. . . . **When a classified employee is required to work on any of said holidays, he or she shall be paid compensation, or given compensating time off, for such work, in addition to the regular pay received for the holiday, at the rate of time and one-half his or her regular rate of pay.**^{9 10}

Implications for Academic Employees

Academic instructors generally work by providing instruction on contracted work days and do not receive paid holidays, unlike classified employees. They are paid their salary, but typically do not work holidays. We advise you review and confirm that relevant administrator contracts, policies and collective bargaining agreements do not require otherwise. If your academic staff worked on June 18, 2021, and you have questions about how to address this, we advise you contact legal counsel.

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

⁹ Cal. Educ. Code § 88203.

¹⁰ See *Cal. Sch. Emps. Assn. v. Oakland Unified Sch. Dist.* (1983) 141Cal.App.3d 624, 627 (“Section 45203 provides that classified employees of a school district are entitled to designated “paid holidays,” and that an employee who is required to work on any such holiday shall be paid two and one-half times his or her regular daily pay (i.e., straight time plus so-called ‘holiday premium pay’ of time and one-half) for that day”).



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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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