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LEGAL UPDATE

October 15, 2021

To: Superintendents, Member School Districts (K-12)
From: Jennifer Henry, Associate General Counsel *J.H.*
Subject: **SB 270 Increases Employer Penalties for Failure to Provide Union with Employee Contact Information**
Memo No. 35-2021

On September 27, 2021, Governor Newsom signed Senate Bill (“SB”) 270 into law.¹ SB 270 authorizes public employee unions to file an unfair labor practices charge before the Public Employment Relations Board (“PERB”) against public employers that fail to comply with existing law requiring disclosure of employee information to public employee unions.

Existing Law:

Under the Public Employee Communications Chapter (“PECC”) (Gov. Code §3555 et. seq.), public employers must provide a union 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 any new bargaining unit employee within 30 days of hire or by the first pay period of the month following hire, and of all bargaining unit employees every 120 days. (Gov. Code §3558.) This law remains unchanged.

SB 270 Changes

Effective Date: SB 270 goes into effect July 1, 2022:

New Notice of Violation Process:

- The union must give the employer a “notice of violation” that the employer has provided an inaccurate or incomplete list of employees’ contact information;
- The employer has 20 calendar days to cure the alleged violation by providing the union an accurate and complete list. (An employer can only “cure” a noticed violation 3 times in any 12-month period to avoid a penalty.);
- If the employer does not cure the violation within 20 calendar days, the union may file an unfair practice charge with PERB;

Civil Penalties: In addition to normal remedies, SB 270 authorizes PERB to award a civil penalty of up to **\$10,000**. The exact amount of the penalty is determined by PERB based on the employer’s annual budget, severity of the violation, and any prior history of violations by the employer.

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB270



Mandatory Attorneys Fee: PERB shall award a prevailing party attorneys' fees and costs that accrue from the inception of proceedings before the board's Division of Administrative Law until final disposition of the unfair practice charge. This applies to unions **and** employers; whichever party prevails.

What information has to be provided: Name, job title, department, work location, work, home, and personal cellular telephone numbers, personal email addresses on file with the employer, and home address. An employee may submit a written request to the employer to limit disclosure of personal contact information. (Gov. Code §6254.3.) An employer and union may enter into an agreement such as an MOU to change the timing or content of employee information provided.

What information doesn't have to be provided: Date of birth, last four digits of social security number, retirement (PERS/STRS) status, employee ID number, hire date (unless otherwise agreed to in an MOU).

Conclusion:

In order to avoid the penalties outlined above, it is imperative that public employers ensure they are providing accurate and complete employee contact information lists to the union. It will also be critical to cure any violations within 20 days of a union notice of violation.

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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