



LAW OFFICES OF YOUNG, MINNEY & CORR, LLP

SACRAMENTO ■ LOS ANGELES ■ SAN DIEGO ■ WALNUT CREEK

UPDATE TO JULY 6, 2015 LEGAL ALERT  
SB 277: STUDENT IMMUNIZATIONS

*Audit Guide Revisions Regarding Immunization Requirements*

As we described in our July 6, 2015, legal alert, the California Department of Health (“DOH”) is preparing regulations to implement SB 277, which eliminated the personal belief exemption (“PBE”) from student immunization requirements as of January 1, 2016 (PBE’s on file in CA prior to 1/1/16 are honored until entering the next grade span – for K-12 students that grade span will be TK/K and 7<sup>th</sup>). We do not have an anticipated timeline for the adoption of the DOH regulations. However, we do anticipate that the DOH regulations will provide more detail in two of the critical items contained within SB 277:

1. SB 277 exempts from its requirements students who are privately homeschooled or who are enrolled in independent study public schools ***if the students do not receive classroom-based instruction***. However, the law does not specifically define whether attending any amount of classes as part of an independent study program constitutes participation in “classroom-based” instruction for purpose of this exemption.
2. SB 277 specifically states that the immunization requirements shall not prohibit a student who qualifies for an Individualized Education Program (“IEP”) from accessing any special education and related services required by his/her Individualized Education program. However, there is no additional detail provided as to how that would occur for a student who does not fulfill immunization requirements.

Local Educational Agencies (“LEA”), including charter schools, are subject to an annual audit for compliance with immunization requirements. ***Until such time as the Department of Health regulations are finalized***, the Education Audit Appeals Panel “EAAP” adopted emergency regulations which will amend the K-12 Audit Guide and direct independent auditors regarding the above two items. Specifically, the Audit Guide, as revised by these emergency regulations, directs an auditor to ***exclude from the representative sample of students to be audited for immunization compliance, students in independent study and students with an IEP that includes special education and related services***. You can see that the revisions to the Audit Guide are broader than stated by SB 277. The Audit Guide revisions exclude these two groups of students (independent study and special education), without any limitations, from the audit of immunization compliance.

These emergency regulations were approved by the Office of Administrative Law and the Secretary of State on March 3, 2016 ***and will expire on August 30, 2016***. It is our understanding that the Audit Guide will be amended once again by the EAAP after the DOH regulations are finalized to ensure alignment.

If you have any questions regarding this Legal Alert, please feel free to call or email Lisa Corr at 916-646-1400 or [lcorr@mycharterlaw.com](mailto:lcorr@mycharterlaw.com).