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NEW CALIFORNIA LAW CHANGES TEACHER TRANSFER RULES

Education Code Section 35036, which went into effect on January 1, 2007, is intended to improve student achievement by placing restrictions on the ability of teachers to transfer from one school to another in the same school district pursuant to a CBA provision or board policy.

Specifically, Section 35036 authorizes the principal of any school ranked in deciles 1 to 3 on the API to refuse the request of any teacher to transfer into the school at any time.

In addition, Section 35036 prohibits the governing board of a school district from adopting a policy or entering into a CBA that gives priority to any teacher over other qualified teachers requesting a transfer to another school if the request is made after April 15th of the year prior to the school year in which the transfer would become effective.

If the restrictions of Section 35036 conflict with the terms of a CBA in effect on January 1, 2007, the new restrictions will not become operative until the CBA expires.

The new law, authored by state senator Jack Scott, gives principals of poor performing schools the ability to build an effective team, which might otherwise be jeopardized by the ability of teachers to transfer in based on seniority or other factors beyond the principal's control. In addition, the April 15th deadline for teacher-initiated transfer requests will minimize the uncertainty and disruption regarding teacher assignments that often persist throughout the summer months preceding each new school year.

RECOMMENDATIONS:

We recommend the steps outlined below to ensure compliance with Section 35036.

- Review all CBA's between your district and teachers' unions to identify any provisions that directly conflict with Section 35036;
- If there are conflicting provisions, follow the CBA provisions until it expires;
- Unless a current CBA provision provides otherwise, notify the principals of schools ranked in deciles 1 to 3 on the API that they may refuse to accept the request of any teacher to transfer into the school for the following school year;
- Unless a current CBA provision provides otherwise, notify the governing board members that it may not adopt any policy or regulation that assigns, after April 15 of the school year prior to the school year in which the transfer would become effective, priority to a teacher who requests to be transferred to a different school over another qualified applicant;
- Meet and confer with the teachers' union over the effects of the new law.

Given the potential impact Education Code § 35036 has upon the transfer practices of a school district, we recommend that you seek legal counsel to conduct an individual analysis of your teachers' contract and any relevant board policies or administrative regulations. We would be happy to address any specific questions you may have concerning this newly effective law.

For further information, or if you would like to receive our legal Alerts in electronic form please visit our website at www.ruizlaw.com. This information is meant to provide a general overview and is not intended to provide comprehensive legal guidance. The reader is advised to consult legal counsel with specific questions on particular matters.