

# Hot Topics, Proposed Legislation, and Current Labor Trends

November 14, 2019

## Hot Topics, Proposed Legislation, and Current Labor Trends

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## Agenda

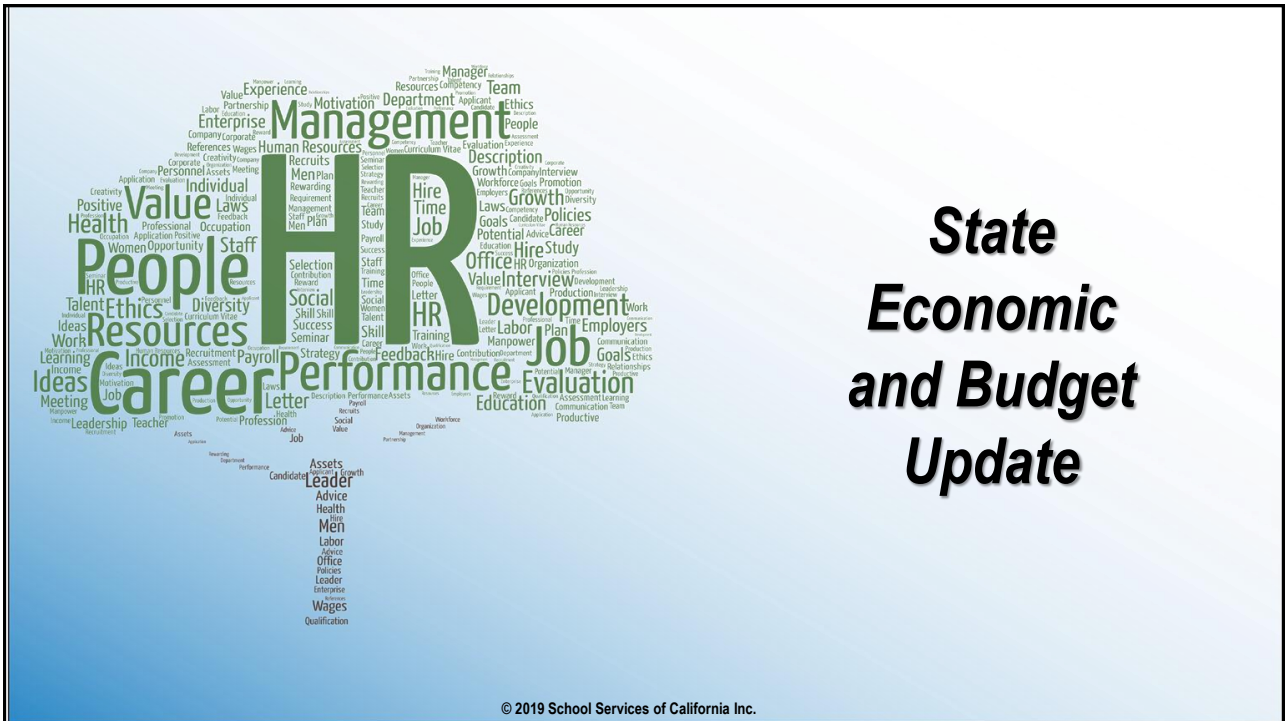
- ❖ State Economic and Budget Update
- ❖ Hot Topics—Signed Legislation
- ❖ Hot Topics—Potential Legislation
- ❖ Current Labor Trends
  - Collective Bargaining Landscape
  - Nationwide Union Efforts
  - California Trends and Common Union Demands
  - Negotiating as a Team
- ❖ Hot Topics—Initiatives



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# Hot Topics, Proposed Legislation, and Current Labor Trends

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## UCLA's Economic Forecast



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- ❖ Over the past year, UCLA economists have forecast a “3-2-1” economy—U.S. economic growth as measured by gross domestic product at 3% in 2018, 2% in 2019, and 1% in 2020
- ❖ Economic growth last year reached 3%, in large part due to the federal tax cuts enacted in December 2017 which stimulated the economy
- ❖ 2019 growth is indeed slowing
  - First quarter growth came in stronger than UCLA economists expected at 3.1%, due to one-time factors such as inventory build up and import/export changes
  - Second quarter growth for 2019 came in at 2%, with many of the one-time factors reversing the first quarter performance
  - Third quarter growth is forecast to be 1.7% by the Atlanta Federal Reserve
- ❖ With a slowing economy, the risk of recession rises

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### UCLA's Economic Forecast



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- ❖ “Although we are not calling for a recession over the forecast horizon, as we have noted for over a year, it is very likely that economic growth will stall in the second half of 2020 as the effects of the 2017 tax cuts wane and as trade tensions exact their toll on corporate investments”
- ❖ Additional concerns:
  - Negatively sloped yield curve
  - Slowdown in employment growth
  - Inability of housing activity to launch
  - Stagnant stock market
- ❖ Looking forward, UCLA economists warn that in the second half of 2020, growth is expected to decline to 0.4% before rebounding to 2.1% in 2021

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### Labor Market Remains Strong



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- ❖ The job market is a “lagging indicator” of the health of the economy
  - It is not a good gauge of where the economy is headed
- ❖ Nevertheless, the U.S. and California job markets remain strong
  - California added 21,300 jobs in September and 34,500 jobs in August, significantly more than the amount needed to absorb population-related growth (0.8% annually or about 11,700 jobs/month)
  - The California unemployment rate in September 2019 was 4.0%, setting a record low rate for the state
  - The U.S. unemployment rate was 3.5% in September 2019

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### Housing Is Slowing



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- ❖ The housing market has traditionally been a good measure of the health of the economy
  - Housing sales are usually accompanied by sales for other consumer durables—appliances, furniture, home furnishings, etc.
- ❖ While home prices are up, sales volume and permits for new construction are down
  - The median home price in California was \$617,410 in August 2019, up 3.6% from one year ago
  - However, sales volume for the first half of 2019 was down 5.9% from the same period one year ago; permits for new home construction were down 16% for the same period



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### Legislative Analyst's Office New Index



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- ❖ The Legislative Analyst's Office (LAO) has developed a new measure to assess the health of the state's economy—the State Fiscal Health Index
- ❖ The index is a composite of ten factors—such as home sales, unemployment claims, new car sales, and the S&P 500—measured over the last twenty-five years
- ❖ Based on this new index, the LAO offers a positive assessment of the California economy, with the index near an all-time high
  - However, seven components of the index have declined over the last three months, signaling that a slowdown is on the horizon



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### The 2019–20 Budget Act



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- ❖ The 2019–20 Budget Act was enacted on time and with few significant changes from the Governor Gavin Newsom’s proposed May Revision
- ❖ General Fund revenues and transfers are projected to grow to \$143.8 billion or 4.2% (\$5.8 billion) in 2019–20
  - The state’s “Rainy Day Fund” reaches \$16.5 billion by the end of 2019–20, up more than \$2.0 billion from the prior year
- ❖ Proposition 98 funding reached \$81.1 billion, a 3.7% increase (\$2.9 billion)
  - Funding is based on Test 1—approximately 38% of General Fund revenues, plus local property taxes
  - Because of declining enrollment, funding will no longer be based on Test 2 or Test 3

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### State General Fund Revenues Up



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- ❖ State General Fund revenues closed out 2018–19 above the May Revision forecast by \$874 million
- ❖ In addition, revenues for the first quarter of the fiscal year have come in at a combined \$287 million, thus placing 2019–20 state revenues up \$1.16 billion higher than the May Revision forecast
- ❖ If revenues outpace the forecast through December, the January Governor’s Proposed State Budget will have to recognize an upward revision to the revenue forecast
- ❖ This would have significant implications for K–12 education funding under Proposition 98



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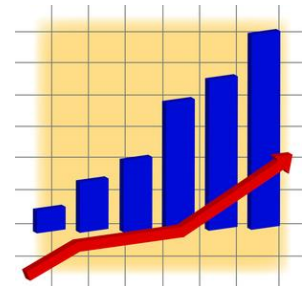
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### Implications for Proposition 98



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- ❖ Last year, the Proposition 98 minimum guarantee was based on Test 2, that is the change in K–12 average daily attendance (ADA) and per capita personal income
  - Unfortunately, the boost in General Fund revenues from May and June (nearly \$900 million) will not increase the 2018–19 Proposition 98 guarantee
  - In other words, Proposition 98 is insensitive to changes in state revenues under Test 2



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### Implications for Proposition 98



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- ❖ Increases in General Fund revenues in the current year, however, will increase the Proposition 98 minimum guarantee because funding is based on Test 1
  - Funding increases about \$380 million for each \$1 billion increase in General Fund revenues
  - Also, the minimum guarantee will increase if local property taxes exceed the forecast
- ❖ Because of declining enrollment, Proposition 98 will likely be based on Test 1 for several years
- ❖ However, Test 1 funding could boost funding on a per-ADA basis, thus allowing Local Control Funding Formula (LCFF) funding to potentially reach higher aspirational targets

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## Hot Topics, Proposed Legislation, and Current Labor Trends

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## Special Education—Additional Funding



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- ❖ **The 2019–20 State Budget includes three pots of additional funding for special education**
  - **Cost-of-living adjustment (COLA)—\$123 million**
  - **Assembly Bill (AB) 602 statewide target equity—\$152 million**
  - **Preschoolers with disabilities—\$492 million, approximately \$9,010 per pupil**
- ❖ **All Special Education Local Plan Areas (SELPA's) will get:**
  - **COLA if currently funded above the statewide target rate OR**
  - **Equity if below**
- ❖ **All elementary and unified districts will receive funding based on preschoolers with disabilities count though they are flexible, one-time dollars**

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## 2020–21 State Budget



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- ❖ The 2019–20 State Budget education trailer bill requires the passage of legislation in the 2020–21 State Budget to reform the special education system to improve outcomes for students in areas such as:
  - The role of SELPAs in the delivery of special education services, including increasing accountability and incorporation into the statewide system of support
  - Expansion of inclusive practices and least restrictive environment—*this is expected to be a key focus*
  - Disproportionality of special education identification, placement, and discipline (as applicable) and also ensure equitable access to services
  - Existing funding allocations for special education

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# Hot Topics, Proposed Legislation, and Current Labor Trends

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### 2020–21 State Budget



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- ❖ In addition to special education, the amount of increased or new education programs will depend upon the amount of funding available
  - We've heard that legislators are concerned about an upcoming recession
  - The Newsom Administration is interested in continuing to use one-time money, outside of Proposition 98, in creative ways to help education—like we saw for the California State Teachers' Retirement System contributions and facilities
    - ▶ The Administration previewed that computer science will be a component of next year's budget
- ❖ The recent LCFF audit will likely play a role in both State Budget and policy conversations
  - Both the Administration and legislative leaders have been protective of the current structure of the LCFF, but that may be eclipsed by recent State Auditor findings

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### Notes



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# Hot Topics, Proposed Legislation, and Current Labor Trends

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## AB 5—Worker Status



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- ❖ **AB 5 (Chapter 296/2019) Worker Status: Employees and Independent Contractors**
  - **Effective January 1, 2020**
  - **Requires employers to prove that their workers can meet the ABC test in order to be classified as independent contractors**
    - A: Worker is free from control and direction of hiring entity**
    - B: Worker performs duties outside the usual course of hiring entity’s business**
    - C: Worker is customarily engaged in established trade, occupation, or business of the same nature as the work performed**
  - **Worker misclassification could lead to retroactive employer obligations in wages, paid sick days, health benefits, seniority entitlement, and retirement credit**
  - **A significant emerging concern is how to handle special education contract workers and whether districts will need to start employing them directly—if they can find them!**

# Hot Topics, Proposed Legislation, and Current Labor Trends

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### AB 5—Bargaining and Operational Considerations



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- ❖ In a post-*Janus* environment, labor unions are focused on building membership
- ❖ A misclassification of an independent contractor or group of consultants could result in bargaining for representation, and restoration of compensation, leaves, and benefits
- ❖ Human resources departments and labor attorneys should work together closely to monitor employment relationships with all external providers
- ❖ Independent contractors should be reviewed on an annual basis so that determinations can be made about long-term employment needs, and to evaluate if the relationship continues to meet the standard

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### AB 218—Childhood Sexual Assault



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- ❖ AB 218 (Chapter 861/2019) Childhood Sexual Assault: Statute of Limitations
  - Extends the civil statute of limitations for childhood sexual assault by fourteen years
  - Revives, for three years, old claims
  - Increases certain penalties for childhood sexual assault
  - Is causing insurers to increase fees, decrease coverage, or stop providing insurance to California schools

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## AB 1353—Classified Probationary Period Overview



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- ❖ **AB 1353 (Chapter 542/2019) Classified Employees: Probationary Period**
  - Reduces the probationary period for school district classified employees from one year to six months, or 130 days, in non-merit school districts (Education Code Section 45113)
  - Merit districts already have a six-month probationary period
- ❖ **Effective January 1, 2020**
- ❖ **AB 1353 allows for collective bargaining agreements entered into before January 1, 2020, to remain “status quo” until the expiration or renewal of the current contract**
- ❖ **Employee mismanagement is a costly burden for the employer to bear**
  - Dismissal cases can cost upwards of \$50,000

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## AB 1353—Bargaining and Operational Impacts



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- ❖ **Changes in the probationary period can impact other provisions in the classified collective bargaining agreement**
- ❖ **These impacts also have other implications for operations**
  - **Evaluation timeline**
    - ▶ Will require negotiation to modify
  - **Promotion and transfer**
    - ▶ Could impact department operations/efficiency if employees are eligible to transfer
    - ▶ High turnover departments and difficult to fill positions may be most impacted

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# Hot Topics, Proposed Legislation, and Current Labor Trends

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### AB 1353—Bargaining and Operational Impacts



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- **Vacation accrual and use**
  - ▶ Employees accrue, but generally are prohibited to use, vacation time until after probationary period is concluded
- **Seniority list management**
- **Employee management and discipline**
  - ▶ Training required for supervisory staff to ensure new timelines and evaluation procedures are implemented with fidelity
- **Compensation**
  - ▶ Many employees are eligible to move steps after completion of probationary period
    - Depending on number of new hires this could have a significant financial impact as the increase is realized during the current school year
    - Staffing projections need to adjust

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### SB 142—Lactation Accommodations



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- ❖ **Senate Bill (SB) 142 (Chapter 720/2019) Lactation Accommodation**
  - Employer shall provide employee with the use of a room to express breast milk
  - The room shall not be a bathroom, and shall be in close proximity to the work space, and free from intrusion
  - The space shall be safe and clean; include a surface to place breast pump and a place to sit; and have access to electricity.

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### SB 142—Bargaining and Operational Impacts



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- ❖ Potential increased costs to ensure coverage of employees during scheduled breaks, and time permitted for expression of breast milk
- ❖ Facility challenges and use of space
- ❖ Assignment of employee—itinerant or site-based?
- ❖ This bill deems the denial of reasonable break time or adequate space to express milk a failure to provide a rest period in accordance with state law

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### SB 328—School Start Time



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- ❖ SB 328 (Chapter 868/2019) Pupil Attendance: School Start Time
  - Mandates that middle schools will not begin the school day before 8 a.m. and high schools will not begin earlier than 8:30 a.m. (includes charter schools), effective July 1, 2022, except for rural districts
    - ▶ Districts and charter schools with collective bargaining agreements in place as of January 1, 2020, that expire after July 1, 2022, are not required to implement until expiration of agreement
    - ▶ Districts can have some limited offerings of classes or activities before the start of the school day that do not generate average daily attendance
  - This law removes agency authority to set their own operating hours
  - Many unknowns: definition of rural district, middle school, limited offerings, etc.

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## SB 328—Bargaining and Operational Impacts



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- ❖ **Master schedule**
  - **Work day/work hours for certificated and classified**
    - **What does your district's contract require—start time specific or instructional day?**
  - **Preparation periods for secondary teachers**
- ❖ **Before/after school activities**
  - **Coordinating schedules for athletics and after school activities with other districts**
    - **Various stages of implementation will affect this in the short-term**
- ❖ **Custodial coverage**
  - **Ensure staffing for the school day/after hours events/facilities use arrangements**

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## SB 328—Bargaining and Operational Impacts



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- ❖ **Transportation**
  - **Consider feeder school start and end times, athletic trips, and after school programs**
  - **Also consider if your district either provides transportation services to other agencies, or contracts for services**
    - ▶ **Many transportation joint powers authorities will be challenged to augment service schedules because of the lack of buses and drivers**
- ❖ **Food services schedule**
  - **With a later start time, breakfast may be pushed back to a later time where it may occur too close to an early lunch period (10am to 2pm)**
  - **Lunch periods, particularly in local educational agencies with staggered lunch times, may need to be moved to a little later in the day to allow the food services staff adequate time to set up and prepare the lunch meal**

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## Pending Legislation



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- ❖ **Several bills may return in 2020:**

- Changes to AB 5 to exempt additional workers either through legislation or the initiative process
- AB 39 would express the intent of the Legislature that, as of the 2020–21 fiscal year, the new, aspirational LCFF grade span adjusted base grants would be equal to specified amounts to meet the national average per-pupil funding level
- AB 197 would require every school within a school district, and every charter school serving pupils in the early primary grades, to implement at least one full-day kindergarten program

## Hot Topics, Proposed Legislation, and Current Labor Trends

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## Pending Legislation



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- **AB 428 would equalize special education funding rates at the 95<sup>th</sup> percentile, provide funding for preschoolers with disabilities, and provide additional funds for students with moderate or severe disabilities**
- **AB 500 would require that school districts, charter schools, and community colleges provide at least six weeks of full pay for pregnancy-related leaves of absence taken by certificated, academic, and classified employees**
- **SB 266 would require that, in the event of a California Public Employees' Retirement System retiree having their pension reduced due to the inclusion of compensation by the relevant public employer that cannot be counted towards a final pension calculation, the public employer must cover the reduced benefit to the retiree**

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## Notes



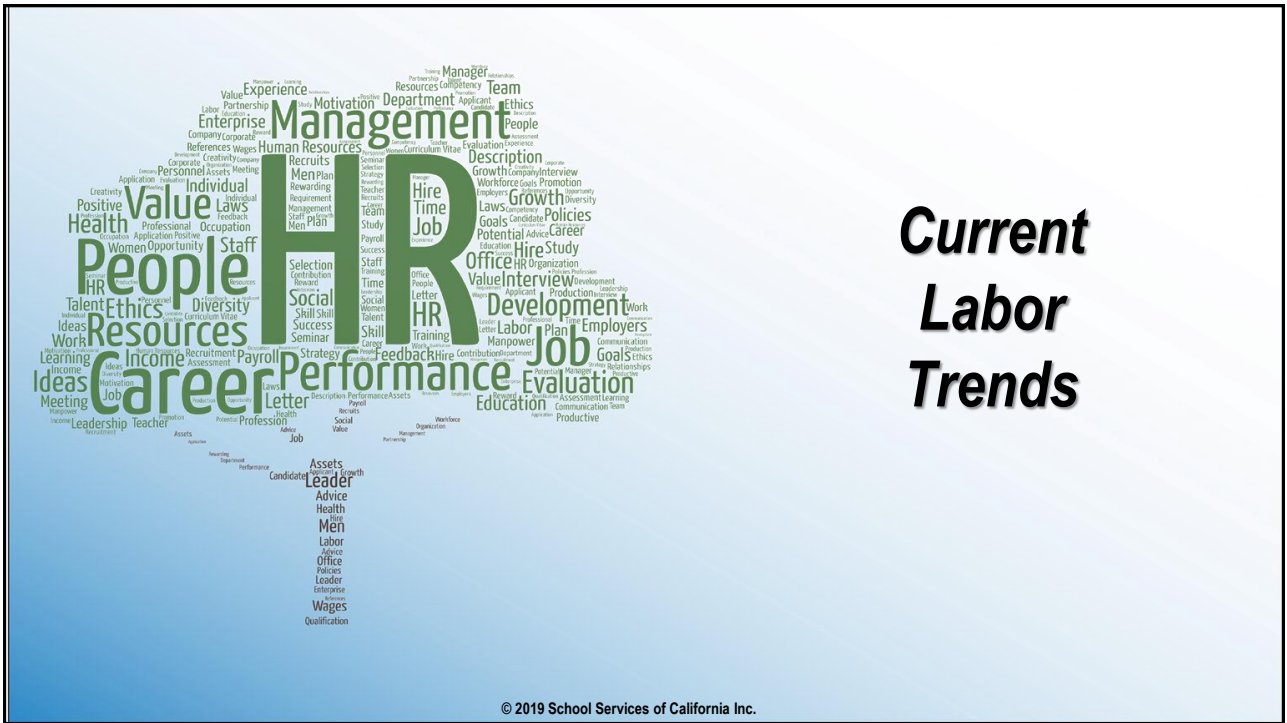
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## Collective Bargaining Landscape



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- ❖ Collective bargaining and local agreements between labor and management shape and define a school district at least as much, if not more than, board and district goals
- ❖ State laws and local collective bargaining agreements prescribe rules relating to compensation and working conditions, but in many cases also limit the ability of school districts to reasonably govern
- ❖ More than ever, labor relations are strained and local relationships have deteriorated

### District

The interests of the public require that the district approach the collective bargaining process in a manner that is ever watchful of the interests of students.



### Union

Unions have a duty to represent the issues of their members

# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019

### Collective Bargaining Landscape



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Requests filed per the EERA <sup>1</sup>	2017–18	2016–17	2015–16	2014–15	2013–14
Mediation Requests Filed	152	182	129	120	116
Factfinding Requests Approved	33	32	22	23	26
Impasses Approved by PERB	113	103	102	91	103

Source: Public Employment Relations Board (PERB) Annual Reports: 2013–14, 2014–15, 2015–16, 2016–17, 2017–18

<sup>1</sup>Educational Employment Relations Act

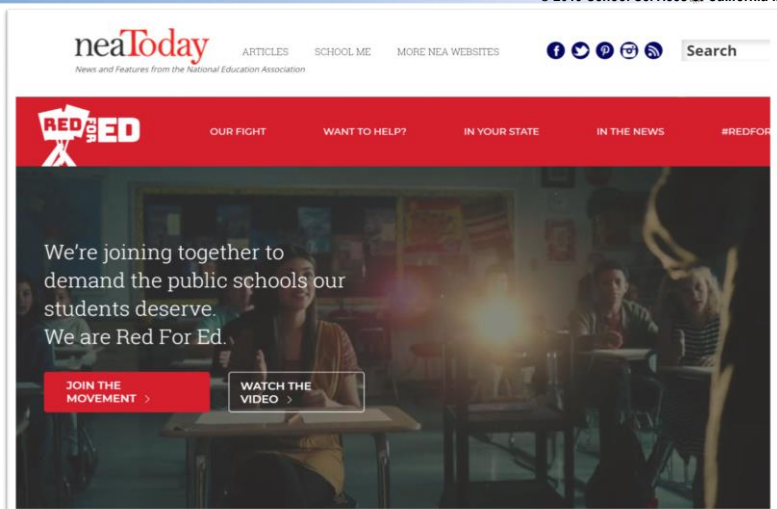
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### The #RedforEd Movement



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- ❖ In April 2018 Arizona teachers walked out of their classrooms for six days advocating for higher teacher pay and more K–12 education funding
  - Teachers wore red in a show of solidarity, which spread throughout the nation



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# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019

### The #RedforEd Platform



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#### Students

- Classrooms are conducive to learning
- Access to school counselors, nurses, psychologists, and social workers
- Educators who know students by name



#### Educators

- A voice in shaping education policy
- Salaries that allow educators to afford to stay in the profession they love without having to work another job
- Opportunities to learn and lead



#### Communities

- Access to opportunities, no matter what you look like, where you're from, or how much money your parents have
- Schools that bring together academics, health and social services, youth and community development, and community engagement

Source: [www.neatoday.org/redford/](http://www.neatoday.org/redford/)

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### Union Arguments



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#### Opening Statement (Question)

##### STUDENTS', FAMILIES' & TEACHERS' DESTINIES ARE INTERTWINED!

NEA Today, May 2018

- "93% of elementary school teachers report that they are experiencing a high stress level."
- "I'm surprised that few people seem to connect the dots back to their own children. When I think of my daughter, for instance, I know that I don't want her to spend an entire day with an adult who is feeling overwhelmed, underappreciated, and mistreated...That's a bad setup for everyone. I hope we are calling attention to the fact that teachers need our support, as parents, as community members, as policy makers, and as private citizens. When teachers are neglected, our children are neglected."  
Keith Herman, Professor, University of Missouri College of Education

- **Is it fair for anyone, especially our students, to have financially overwhelmed teachers in our classrooms?**



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## November 14, 2019

### Union Arguments



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#### (7) Any other facts, not confined to those specified in (1) to (6).



- Teachers (**Mostly Women**) are underpaid compared to our peers and other professionals.
  - *Teachers Are Paid Almost 20 Percent Less Than Similar Professionals, Analysis Finds* by Madeline Will on September 5, 2018, Education Week
  - *The teacher weekly wage penalty hit 21.4 percent in 2018, a record high, Trends in the teacher wage and compensation penalties through 2018* by Sylvia Allegretto and Lawrence Mishel, April 24, 2019, Economic Policy Institute Report
- Governor's Budget will decrease employer contributions to CalSTRS. Districts can redirect local district funds to teacher salaries and benefits to gain ground. These funds should already be budgeted. School Services has already changed their Financial Projection Dashboard which many districts rely on for their budgets.
- "How we treat our teachers [mostly women] is a reflection of how we treat our children." Rev. Dr. Arthur Cribbs Jr.

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### Union Arguments



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#### Closing Statement



Rev. Dr. Martin Luther King, Jr., Letter from Birmingham Jail (1963)

- A beautiful clarification of nonviolent resistance (i.e. strikes) and its eloquent insistence on justice for all has made it a foundational text for all of humanity. It is relevant here.
- "Negro leaders sought to negotiate with the city fathers. But the political leaders consistently refused to engage in good-faith negotiation...You may well ask, 'Why direct action, why sit-ins, marches, and so forth? Isn't negotiation a better path?' You are exactly right in your call for negotiation. Indeed, this is the purpose of direct action. Nonviolent direct action seeks to create such a crisis and establish such creative tension that a community that has consistently refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored. I just referred to the creation of tension as a part of the work of the nonviolent resister. This may sound rather shocking. But I must confess that I am not afraid of the word 'tension.' I have earnestly worked and preached against violent tension, but there is a type of constructive nonviolent tension that is necessary for growth. Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the bondage of myths and half-truths to the unfettered realm of creative analysis and objective appraisal, we must see the need of having nonviolent gadflies to create the kind of tension in society that will help men to rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood. So, the purpose of direct action is to create a situation so crisis-packed that it will inevitably open the door to negotiation. We therefore concur with you in your call for negotiation."

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# Hot Topics, Proposed Legislation, and Current Labor Trends

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### Teacher Strikes in California



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- ❖ Teacher activism could bring to a boil the stew of tensions in school districts facing cuts in programming amid rising pension and special education expenses, declines in student enrollment, and a projected leveling of state revenue
- ❖ Teacher strikes in 2018–19 have rippling effects which intensify bargaining and labor relations

District	Duration	Increase Type	Fiscal Years	Contract Language
Los Angeles Unified School District (USD)	6 days	3%—ongoing	2017–18	Reduction in class sizes
		3%—ongoing	2018–19	Increase in support staff
Oakland USD	7 days	3%—one-time	2018–19	Reduction in class sizes
		3%—ongoing	2018–19	Delay in school closures for five months
		2%—ongoing	2019–20 (eff: 1/1/20)	
		3.5%—ongoing	2020–21 (eff: 1/1/21)	
		2.5%—ongoing	2020–21 (eff: 6/30/21)	
Sacramento City USD	1 day	3.5%—ongoing	2018–19	Labor dispute over implementation of Tentative Agreement signed in November 2017
New Haven USD	14 days	3%—ongoing	2018–19 (eff: 1/1/19)	Opportunities for retirees to earn full-year credit with either fourteen days of summer school or performing student assessments
		2.5%—one-time	2018–19	
		1%—ongoing	2019–20	
Forestville USD	4 days	5%—ongoing	2018–19	Compensation only
		5%—ongoing	2019–20	
		3%—ongoing	2020–21	

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### Common Union Demands



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- ❖ Based upon the *#RedforEd* movement and California Teachers Association's general platform, we are seeing the same issues repeat in many local educational agencies (LEAs) with the common theme of providing what is in the best interest of the employees, rather than what is in the best interest of students or the welfare of the public including:
  - Comparisons to statewide average teacher salary
  - District's finances
  - Minimum wage
  - Special education
  - Counselor staffing
  - Refusal to bargain emergency days

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# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019

### Statewide Teacher Salary



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- ❖ The California Department of Education publishes salary and expenditure data each year
  - The average salary of California public school teachers in 2017–18 was \$80,680
    - ▶ Aggregate average of all districts
  - According to Table B-6 of the National Education Association's Rankings & Estimates: Rankings of the States 2018 and Estimates of School Statistics 2019 report, California's 2017–18 average teacher salary ranked second highest in comparison to all other states

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### Statewide Teacher Salary



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- ❖ Unions are pushing for all districts' teacher salary schedules to be at the average
  - Ignores the definition of average
  - Ignores a district's ability to pay
  - Ignores funding differences in high/low LCFF districts or basic aid districts
  - Ignores funding differences in elementary, high, and unified districts
  - Ignores economies of scale in large vs. small districts
- ❖ In some recent cases, movement to the average would require a salary increase of over 30%, bankrupting the district
- ❖ Union arguments ignore benefits contributions unless they are comparably low, then they are part of their argument

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# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019

### Statewide Teacher Salary



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- ❖ To refute this argument, focus on what matters
  - Identify appropriate comparable districts and focus on comparability in your region
    - ▶ Evaluate cost of living
  - Disaggregate the data:
    - ▶ 2017–18 statewide average salary for all districts was \$80,680
    - ▶ 2017–18 statewide average salary for elementary districts with 1,000 ADA or less was \$69,203—a 16.5% difference!
  - Always, always talk in total compensation
    - ▶ Salary + district's benefits contribution = total compensation package

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### Example: Historical Changes in Compensation



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	Average Salary	Percent Change	Average Benefit Contribution	Percent Change	Total Compensation	Percent Change
2002–03	\$55,750	–	\$6,760	–	\$62,510	–
2003–04	\$56,442	1.24%	\$7,407	9.56%	\$63,849	2.14%
2004–05	\$57,667	2.17%	\$7,788	5.14%	\$65,456	4.71%
2005–06	\$59,818	3.73%	\$8,408	7.95%	\$68,227	4.23%
2006–07	\$63,618	6.35%	\$8,900	5.85%	\$72,517	6.29%
2007–08	\$65,804	3.44%	\$9,281	4.28%	\$75,085	3.54%
2008–09	\$66,993	1.81%	\$9,677	4.27%	\$76,670	2.11%
2009–10	\$67,911	1.37%	\$10,302	6.47%	\$78,213	2.01%
2010–11	\$67,867	-0.06%	\$10,807	4.90%	\$78,674	0.59%
2011–12	\$68,530	0.98%	\$11,348	5.00%	\$79,878	1.53%
2012–13	\$69,431	1.31%	\$11,759	3.62%	\$81,190	1.64%
2013–14	\$71,415	2.86%	\$12,281	4.44%	\$83,696	3.09%
2014–15	\$74,090	3.75%	\$12,668	3.15%	\$86,758	3.66%
2015–16	\$77,148	4.13%	\$13,029	2.85%	\$90,177	3.94%
2016–17	\$79,113	2.55%	\$13,491	3.55%	\$92,604	2.69%
2017–18	\$80,633	1.92%	\$13,838	2.57%	\$94,471	2.02%

Source: J-90 data collection

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# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019

### District's Finances—Union Arguments and Positions



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- ❖ High cost of living
- ❖ Ending fund balance
  - Reserves
  - One-time money
    - ▶ Technology purchase, new school assignments, mandate money, school carryover
  - Restricted vs. Unrestricted
- ❖ Percentage spent on teachers—current and historical trends
- ❖ Percentage spent on administrators
- ❖ Budget line: Services and Other Operating Expenses
- ❖ Argument to make a three-year deal because of three-year projection requirement

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### District's Finances



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- ❖ The key to addressing all of the finance items is communication!
  - Explain education funding cost-of-living adjustment is state-driven, no additional funding for location
  - Educate the team on the budget
    - ▶ One-time vs. on-going revenues and restricted vs. unrestricted
    - ▶ Designations in the fund balance
    - ▶ Board-required reserves
  - Break out your district's Services and Other Expenses line—does it include:
    - ▶ Special education costs?
    - ▶ Transportation costs?
    - ▶ Contract employees expense because of statewide shortage of teacher/support services professionals?

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# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019



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### Mandated Minimum Wage Increases

- ❖ The scheduled minimum wage increases continue to be a challenge for districts at the bargaining table
- ❖ California's minimum wage implementation schedule:

Minimum Wage	Employers with Twenty-Five or Less Employees	Employers with Twenty-Six or More Employees
January 1, 2019	\$11.00/hour	\$12.00/hour
January 1, 2020	\$12.00/hour	\$13.00/hour
January 1, 2021	\$13.00/hour	\$14.00/hour
January 1, 2022	\$14.00/hour	\$15.00/hour
January 1, 2023	\$15.00/hour	

Note: There are many cities and counties in California that have an ordinance requiring a higher minimum wage than the state

- ❖ Meeting the minimum wage mandate is an obligation of the employer and cannot be waived by the collective bargaining agreement (Civil Code Sections 1668 and 3513)

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### The Minimum Wage Puzzle



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What are the solutions to addressing the minimum wage requirements?

<p>Create a committee of district and classified personnel to come up with solution orientated suggestions</p>	<p>Square the entire salary schedule after raising wages the requisite amount among the lowest paid classifications to meet the mandate</p>	<p>Raise only the salary cells that fall below the minimum wage</p>
<p>Collaborative approach which provides representation of both parties</p>	<p>Expensive and not affordable for most districts</p>	<p>Eliminates the desired squared salary schedule</p> <p>Creates pay compression (minimal difference in pay between employees regardless of skills and experience)</p>

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# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019

### The Minimum Wage Puzzle



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Take the lowest salary range employee group which does not meet the minimum wage mandate and move it to the next salary range that does.

Move employees across the range (step to step) in order to meet the mandate. Sometimes the steps on the lowest range may not meet the minimum, but moving people across the steps may bring them at or above the minimum.

Longer term compression, as the higher ranges must eventually be created and added at the top of the salary scale, within a reasonable amount of time, in order to avoid any significant scale compression

Could decrease the value of length of service (seniority)

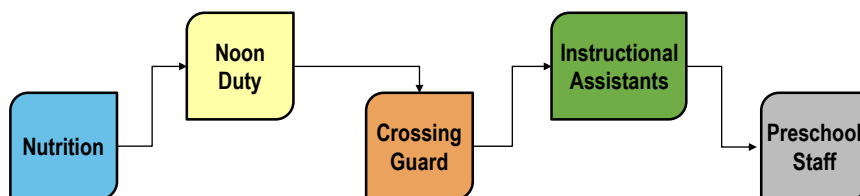
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### The Minimum Wage Puzzle



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- ❖ Evaluate the salary schedule and determine if classifications which fall below the minimum wage should be reclassified
  - Utilizing the reclassification process to resolve the minimum wage issue can be beneficial to the employees and the employer
- ❖ Ensure that you know the number of employees in the salary cells which are scheduled to fall below the minimum wage—this will help to determine the costs of salary adjustments
- ❖ Be aware of classifications which could fall into the red zone



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# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019

### The Minimum Wage Puzzle



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- ❖ Work with your board, management, and bargaining units as both minimum wage and the exempt thresholds are rising
- ❖ Be aware of the timelines and backward map any board action that will be needed
- ❖ Develop a team of local educational agency staff to review salaries, salary schedules, and duties of those employees who are classified as exempt and those who are earning less than the minimum wage
- ❖ Strategize any impending changes to salary schedules, including any impact on job classifications that are higher on the schedules, and how that may affect those who are not impacted
- ❖ Budget for any increases or changes to salary schedules
  - Consider the multiyear impact of a \$15 per hour minimum beginning January 1, 2022
- ❖ When in doubt, contact your labor attorney!

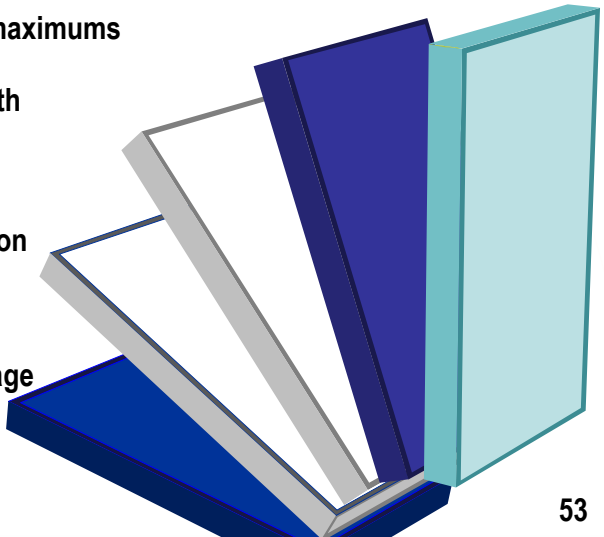
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### Special Education Common Union Demands



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- ☒ Special education class size and caseload maximums
- ☒ Restrictions on the inclusion of students with disabilities in general education classes
- ☒ Additional compensation for conducting assessments, writing individualized education programs (IEPs), attending IEPs
- ☒ Instructional assistant coverage for all instructional minutes and bus-to-bus coverage
- ☒ Instructional assistant substitute guarantee



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## Bargaining Special Education Language



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- ❖ Communication is key in creating a common understanding of the factors which impact special education staff
- ❖ The absence of agreement on key terminology and essential job responsibilities for special education staff may open the opportunity for grievances and employment disputes
- ❖ Work with the bargaining unit to establish definitions of employment terms which impact working conditions
  - Be cautious in agreeing to language that could infringe on a student's right to equal access or could be considered discriminatory
  - This is a slippery slope!
- ❖ Recent settlements significantly affect how a district can provide services to its students with disabilities (SWDs)—caseloads, as well as new restrictions on assessment load, are much lower than what's required by the state

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## Tips for Bargaining Special Education Language—Invite Teachers to Join You in Reducing Special Education Costs



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- ❖ **Higher-than-average SWDs likely means more staffing and higher-than-average costs**
- ❖ **This takes money off the table for compensation increases**
- ❖ **Invite teachers to join you in reducing special education costs**
  - **Suggest a special education self study as a means for identifying cost drivers**
    - ▶ **A self-study is often effective because those who are involved in the self-study, and making recommendations, are the same people responsible for implementation**
    - ▶ **A self-study increases ownership of problems and solutions**
    - ▶ **But it takes a willing partner**
  - **Discuss the need to implement multitiered system of supports**

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## Tips for Bargaining Special Education Language— Do Not Agree to Language That Enshrines the Status Quo



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- ❖ The union may argue that their proposal is consistent with existing class sizes and/or caseloads and they need language in the contract so they can file a grievance if the district increases them
  - Neither of these arguments are compelling
- ❖ Inform the union of increased compliance monitoring, least restrictive environment targets, and disproportionality
- ❖ Maintain the position that you are working to reform special education programs and propose language that provides for class size flexibility so you can implement more inclusive models
- ❖ Again, invite them to join you in your efforts to improve outcomes for SWDs

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## Tips for Bargaining Special Education Language— Use an MOU to Pilot Language



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- ❖ A memorandum of understanding (MOU) is a binding agreement between the parties—but unlike the rest of the agreement, it expires
- ❖ Consider the following when writing an MOU:
  - If you don't want it subject to the grievance procedure, say so
  - Be sure that you state the term of the MOU and what happens when it expires
    - ▶ Renews automatically?
      - Renews unless one of the parties request to negotiate the terms
    - ▶ Expires?
    - ▶ Becomes contract language?
  - Clearly state that the MOU is not precedence-setting

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# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019

### Other Items



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- ❖ **Counselor staffing:**
  - **Statewide push for one counselor per site**
    - ▶ **Ignores type of district, school size, or student contacts**
- ❖ **Bargaining emergency days**
  - **Refusal to accommodate school closures due to natural disaster**

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### Negotiating as a Team

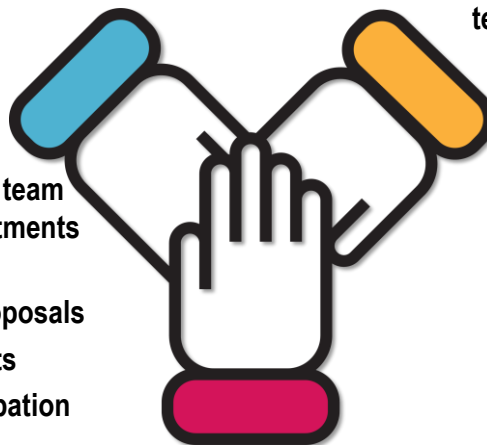


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**Highly functioning bargaining teams share in the key topics**

**Review your bargaining team annually and make adjustments based on:**

- **Current issues and proposals**
  - **Individual skillsets**
- **Team member participation**



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## Hot Topics, Proposed Legislation, and Current Labor Trends

November 14, 2019

## Assembling the Team



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- ❖ **Creating a team with a diverse professional background helps strengthen the district's position while building professional capacity and the working relationship with the employer and employee groups**

Teaching and Learning	Special Education	Behavior Services	Payroll Manager	Maintenance and Operations	Site Leadership
Include the Local Control and Accountability Plan lead to represent the initiatives of the district	Special education expert contributes expertise in current trends and in upholding the objectives of the program	Typically the supervisor of paraprofessional staff and can assist in dialog regarding employment issues	Contributes compensation and payroll detail at a highly technical level	Due to the wide scope of supervision, the maintenance and operations leader contributes to employment issues related to custodians, grounds, and maintenance staff	Administrators on the front line have direct knowledge of working conditions and can make significant contributions

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## Assembling the Team



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- ❖ If your proposal involves a particular department, it could be beneficial to add the leadership to your team
- ❖ Departments or service areas that have experienced an influx in grievances or employee complaints may require an adjustment on the bargaining team to help in communication at the table
- ❖ Including department/site leadership as a guest at the table can be a powerful tool if there isn't room for them on the bargaining team or they cannot commit as a full-time member
- ❖ Provide your team with training, including bargaining anchors, board goals and parameters, and legal compliance and relevant employment laws

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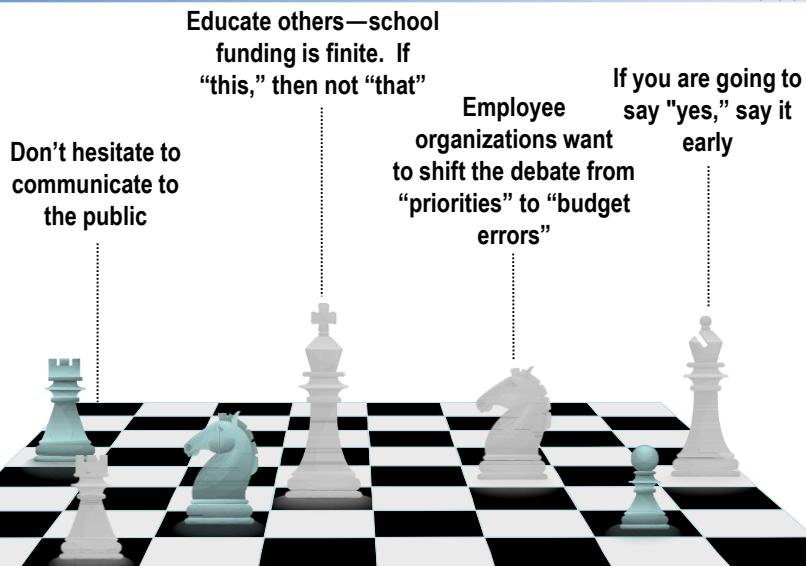
# Hot Topics, Proposed Legislation, and Current Labor Trends

November 14, 2019

## Communicate and Educate



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## Notes



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## Hot Topics, Proposed Legislation, and Current Labor Trends

November 14, 2019



## New Proposition 13 Split Roll Initiative



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- ❖ The “California Schools and Local Communities Funding Act,” otherwise known as the Proposition 13 split roll, has qualified for signature gathering for the November 2020 ballot
  - An older version of the initiative that has already qualified for the November 2020 ballot was originally written for the 2018 General Election ballot, but did not qualify in time
- ❖ Proponents tout the new initiative as an improvement on the original version
  - Calibrates the implementation dates to adjust for November 2020 vs. 2018 ballot
  - Strengthens small business tax relief and clarifies the definition of small business
  - Tightens the education finance language to ensure every school district receives funding in an equitable way
  - Strengthens the zoning language to ensure large corporations cannot avoid reassessment

# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019

### How it Works—The Basics



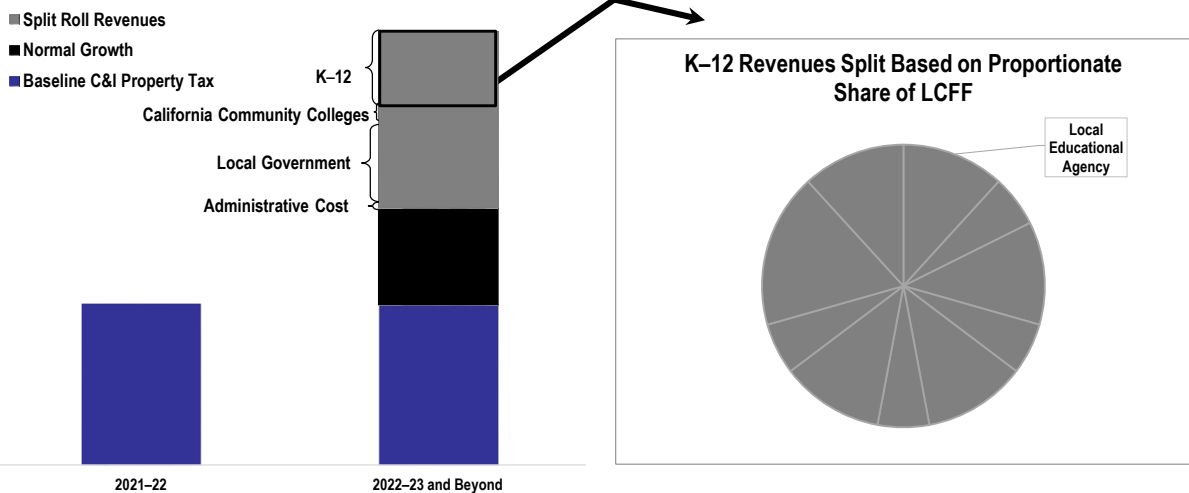
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- ❖ The split roll proposal would reassess commercial and industrial (C&I) properties regularly based on fair market value, not just with ownership changes, which could generate an additional \$11 billion annually
  - Resulting revenues are provided to cities, counties, and special districts based on the current local split of property taxes—accounting for about 60% of the total additional taxes collected
  - Revenues for schools and community colleges are pooled into the Local School and Community College Property Tax Fund—accounting for about 40% of the total additional taxes collected
    - ▶ 89% of these funds would be for K–12
    - ▶ Each K–12 district would receive funding based on their proportionate share of the LCFF



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### How it Works—The Mechanics



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# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019



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### “Full and Fair Funding” Initiative

- ❖ Proposed by the California School Boards Association, the Association of California School Administrators, and the Community College League of California, the “Full and Fair Funding: the Public School Progress, Prosperity and Accountability Act of 2020” initiative would place a new tax on corporations and millionaires with the new revenues earmarked for K–14 education, estimated to be roughly \$15 billion annually
  - Beginning in 2021, the proposal would add:
    - ▶ 2% tax on taxable incomes of more than \$1 million
    - ▶ 3% tax on taxable incomes greater than \$2 million
    - ▶ Up to 5% for corporate incomes greater than \$1 million
  - The funding would only be for K–14 districts, again with 89% going to K–12 and 11% to community colleges

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### Full and Fair Funding—Use of Funds

- ❖ Like the Split Roll initiative, funds would be allocated to LEAs in proportion to each LEA’s share of the LCFF
- ❖ Funding, which would be subject to annual audit procedures, would be used for:
  - Workforce preparation
  - School safety
  - Recruitment and retention of teachers and school leaders
  - Reducing achievement gaps
  - Pre-kindergarten early learning services
  - Computer science education
- ❖ No more than 5% could be used for administration.

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# Hot Topics, Proposed Legislation, and Current Labor Trends

## November 14, 2019

### November 2020 Election



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- ❖ If all goes well with the signature-gathering process, these initiatives will go before the voters on the November 2020 ballot
- ❖ Polling from the Public Policy Institute of California in September 2019 indicated that 47% of likely voters favor a split roll property tax system
  - No official polling has yet been conducted on the Full and Fair Funding initiative, but proponents believe it will poll well above 50%
- ❖ A strong opposition campaign from the business and anti-tax community will erode support for either (or both) as the General Election draws nearer



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### Notes



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**Questions & Answers**

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# Thank you!

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