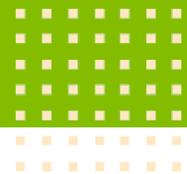




News

Parents May Administer Medicinal Cannabis on Campus

October 2019



Overview:

Effective January 1, 2020, Senate Bill (“SB”) 223 authorizes school boards to adopt policies permitting parents to administer medicinal cannabis to their children on campus under certain conditions. SB 223 does not allow school boards to require staff members to administer medicinal cannabis to students, nor permit students to self-administer medicinal cannabis.

Existing Law:

The Compassionate Use Act (“CUA”) currently allows physicians to recommend medicinal cannabis to children for certain qualifying conditions (for example, a cannabis based-oil to treat seizure disorders), but does not permit them to write prescriptions for its use. Therefore, school nurses (who are only permitted to administer prescribed medication to students) cannot administer medicinal cannabis to students. In practice, this means that the parents of students with medical cannabis recommendations must check them out of school in order to administer the medical cannabis elsewhere.

In addition, the federal Safe and Drug-Free Schools and Communities Act prohibits marijuana within 1000 feet of school campuses. Both the U.S. Department of Education and California Department of Education may audit schools to ensure compliance with this Act, and they may withhold state and/or federal education funding to districts in violation.



New Law and Impact:

SB 223 was drafted in response to the increasing numbers of students who qualify as medical cannabis users under the CUA, as well as the impracticability of the parental check-out process. The new law, codified at Education Code section 49414.1, states that school boards may, at regularly scheduled board meetings, adopt a policy allowing parents to administer medicinal cannabis to students on campus. Under SB 223, the term “medicinal cannabis” excludes products ingested through smoking or vaping. If a school board does not adopt such a policy, SB 223 will have no effect on the district.

Any policy adopted pursuant to SB 223 must:

- Require parents to provide a valid written medical recommendation for medicinal cannabis for the school to keep on file.
- Require parents to sign in on campus before administering the medicinal cannabis.
- Indicate that the medicinal cannabis cannot be administered in a way that is disruptive or exposes other students to the medicinal cannabis.
- Prohibit medicinal cannabis from being stored on campus and require the parent to remove the medicinal cannabis after each use.

Note that the federal Safe and Drug-Free Schools and Communities Act remains unchanged. A school board may rescind its policy regarding medicinal cannabis for any reason, including the risk of losing federal funding.

If you have questions about the passage of SB 223 or any related topic, please contact one of our six offices.

Professionals



Tiffany M. Santos

Partner

San Diego

760.304.6013

tsantos@f3law.com