



## **MEMBER ALERT**

### **New Law – SB 906**

#### **Duty to Advise Parents of Personal Handgun Safety Requirements; Duty to Immediately Report any Actual/Potential Homicidal Act (July 2023)**

**(In consultation with Rob Cutbirth, NBSIA General Counsel)**

There have been 67 incidents of gunfire on school grounds, with 23 deaths and 48 injuries in the 2022-23 school year. In 2022, those numbers were higher with 177 incidents of gunfire, 57 deaths, and 149 injuries. This unfortunate trend in school-related gun violence is regularly reported in the news media, which notes that many of the assailants are either minors or younger individuals. It is further reported that these individuals obtained the guns from their homes, where the guns are often owned and stored by parents or other relatives who failed to implement protective measures to avoid their misuse by others.

For the purpose of avoiding gun violence and other homicidal acts on school campuses, California adopted SB 906, which imposes the following obligations on Local Educational Agencies (LEAs: school districts, charter schools, county offices of education) commencing with the 2023-2024 school year:

#### **I. ANNUAL NOTICE MUST NOW CONTAIN GUN SAFETY INFORMATION**

The annual notice to parents required by Education Code Section 48980 must now contain personal/home gun safety information. The recommended content for the new addition to the annual notice is to be published by the CDE no later than July 1. We have not yet found the model language, but expect it soon to be issued. Members should ensure that this gun safety information is contained in the annual parental notice before it is published to parents for the 2023-2024 school year.

#### **II. DUTY ON EACH LEA EMPLOYEE TO REPORT ACTUAL/POTENTIAL HOMICIDAL THREATS**

Legally limited to LEAs having K6-12 school operations (middle/high schools), new Education Code Section 49393 requires each certificated and classified employee who becomes aware of an actual or potential homicidal threat by a *student* to immediately report the situation to law enforcement and prepare a report documenting the facts and circumstances associated with the threat. This is an independent duty, such that if two or more employees become aware of the threat, they each must ensure that a report is immediately made to law enforcement and documented so that the situation never “falls through the cracks.” If an agreement is made to delegate or share the responsibilities for reporting and documenting, and one employee fails to carry out his/her duty, the other employee must immediately undertake such steps.

*While the law does not reference volunteers, we would encourage members to make this a requirement of volunteers as well, as long as training is provided to your volunteers on this important obligation. We would also encourage members to apply this standard not just to students, but to any adult or other person of whom they become aware that might have improper intentions regarding students, staff, or school sites. Care should be taken in creating practical and enforceable rules and standards. NBSIA can assist you in crafting appropriate policies and reasonable steps to better support safe schools and learning environments.*

The new law defines “threat or perceived threat” to be any writing or action by a student that creates a reasonable suspicion that the student is preparing to commit a homicidal act related to school or a school activity. A reasonable suspicion exists where there is a “rational inference” from direct or indirectly obtained writings, social media posts, or verbal statements creating an “objective suspicion” that the homicidal act might be carried out. Potential sources of information used in making that analysis could include possession of firearms or ammunition, pictures or writings referencing homicidal violence, journal or social media entries, or “warnings” or disconcerting comments made by the student to other students, staff members, or community members brought to the LEA employees’ attention. The employee’s required report must contain an explanation of these facts and circumstances and why they lead to the belief that a homicidal event might occur.

### **III. LAW ENFORCEMENT RESPONSE**

Once law enforcement receives the required notification from the LEA, it must dispatch an investigation officer to the school site to conduct an assessment of the threat or perceived threat. As part of the threat assessment, law enforcement must conduct a search at the school site if there is a “reasonable suspicion that it would produce evidence related to the threat or perceived threat.” They will later document their findings.

Law enforcement officers have been trained on proper procedures to appear on campus in such situations, and the new law dictates that LEAs are obligated to support those investigative efforts. Please note, however, there can be legal limitations on searches and interviews. Although we appreciate the work and important services by our law enforcement partners, the local employees should immediately speak to their senior LEA leadership if they have questions or concerns regarding the scope of investigation.

### **IV. ADDITIONAL NEEDS AND CONSIDERATIONS**

Because of the issue of safety created by such situations, the local LEA employees should immediately notify members of the LEA’s senior management and safety team members (Superintendent, appropriate Assistant Superintendent(s), and any internal School Resource or Safety Officers). It may also be appropriate to consider activating emergency protection and response plans, including lock down procedures, as may be reasonable or appropriate. While there often can be a question of whether such protective action is an “overreaction,” it is best to err on the side of caution, working with safety and law enforcement guidance, to reach the best decisions regarding such protocols and responses.