

FALL 2023

NEWSLETTER



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a law firm founded on
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DO FALL!

Yes, fall has finally arrived bringing cool weather, falling leaves and that “FALL” feeling. PLPC is enjoying the new weather and a brand-new client, the County of San Benito. We are growing again in both clientele and personnel and are extremely excited and honored to serve San Benito County. As for personnel, Rhett Vander Ploeg joined the firm after years in public service as a deputy county counsel, district attorney and county counsel. She is now serving the County of Sierra as County Counsel, where she previously served as a deputy. This addition was long sought after, and we are grateful to Rhett for joining us. However, that’s not all. Caitlin Smith has been with the firm for about two years, in a part time capacity. She now, to our delight, has joined the firm as a full-time attorney. Please see Ms. Smith’s biography on our site; it is something to read. Also, Andrew Plett has joined the firm after years as a deputy county counsel in Tehama County. Andrew is a wonderful addition to the PLPC family and will be concentrating on litigation for our public agency clients.

All of us at PLPC wish
you a wonderful Fall!



Refining the California Public Records Act by the Enactment of AB 473

By Gretchen Dugan, Legal Assistant

AB 473

California Government Code section 6250, also known as the California Public Records Act (“CPRA”), was enacted by our State’s legislature in 1968 and is intended to preserve the accountability of the government to the public. The CPRA expressly confirms that public access to government files is a fundamental right of all citizens.

Government Code section 6253 states that “every person has a right to inspect any public record.” The purpose of this statute is to ensure that the public has access to public records of governmental bodies in California, such as school districts, county boards, local agencies, or bureaus.

What is a public record? Government Code section 6252 defines a public record as “any writing containing information relating to the conduct of the public’s business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.” This includes any printed, handwritten, typed, or photographed document, facsimile, email, photocopy, letter, etc.

Government Code section 6254 also provides that certain types of files are exempt from public inspection because its public release would constitute an unwarranted invasion of privacy. Personnel and medical records fall into this category of exemption. On the other hand, in a recent situation where a local citizen requested several types of public records drafted by city officials, but the city did not release communications made using the individuals’ personal email accounts, the Supreme Court held that a city employee’s writings about public business are not



excluded from disclosure under the CPRA simply because the writings have been sent, received, or stored in a personal account. (*City of San Jose v. Superior Court* (CA. 2017), 214 Cal. Rptr. 3d 274.)

Assembly Bill (AB) 473, also called the CPRA Recodification Act of 2021, was recently introduced by former assemblyman Edwin Chau (D) in February 2021, signed by Governor Gavin Newsom in October 2021, and enacted in January 2023. AB 473 recodifies and reorganizes the provisions of the CPRA and it is intended to be inconsequential in effect. This bill contains related legislative findings and declarations that further define the scope of the CPRA, but its legislative purpose and intent remains the same: to mandate the release of records for public examination unless an immunity from disclosure applies.

Specifically, AB 473 repeals Government Code section 6276.50 and replaces it commencing with section 7920. AB 473 expands the definition of what an “elected or appointed official” includes, and also acts as a continuation of provisions for terms like local agency, public safety official, personal information, and computer software. Government Code section 7930 provides provisions for certain exempt records, such as morbidity and mortality studies, market reports, timber yield tax, marital confidential communications, and paternity acknowledgment.



SPOTLIGHT
KELSEY WALSH
Associate

A former Deputy District Attorney of the Shasta County District Attorney's Office, Ms. Walsh is currently serving as Interim District Attorney for Modoc County where she has been assisting with in-custody arraignments, charging and filing on misdemeanor and felony criminal matters, and issuing felony warrants.

In addition to these duties, Ms. Walsh is Assistant City Attorney for the City of Susanville and serves on the legal team for San Benito County. Ms. Walsh's practice further includes municipal law, public guardianships, adult protective services, conservatorships, marijuana abatement, unlawful detainers, receiverships, subpoenas, workplace violence, restraining orders, dependency law, civil litigation, and code enforcement issues. Ms. Walsh also represents and defends local municipalities throughout California in comprehensive Public Records Act matters.

Prentice|LONG, PC is honored to have Associate Kelsey Walsh representing our agency clients throughout the North state.

KELSEY WALSH

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The Pregnant Workers Fairness Act (PWFA)

By Carolyn Walker, Associate

The Pregnant Workers Fairness Act (or PWFA) is a new federal law that went into effect on June 27, 2023. The PWFA joins other related laws including Title VII of the Civil Rights Act of 1964 as amended by the Pregnancy Discrimination Act (PDA), the Americans with Disabilities Act (ADA), the PUMP Act (Providing Urgent Maternal Protections for Nursing Mothers Act) and the Family and Medical Leave Act (FMLA) that provide protections to an employee who is or may become pregnant while employed.

The newly enacted PWFA requires covered employers to make reasonable accommodations for qualified applicants and employees unless the accommodations cause an undue hardship on the employer. Covered employers are private and public employers who employ at least 15 or more employees including Congress, Federal agencies, employment agencies and labor organizations. The new law extends reasonable accommodation rights to employees with known limitations related to pregnancy, childbirth, or related medical conditions. The new law also establishes more clear guidelines and accommodation obligations for employers. This helps make sure that employees affected by pregnancy, childbirth or related medical conditions are treated more fairly. The new law also discourages employers from forcing employees out of their jobs due to pregnancy, childbirth, or related medical conditions.

Examples of accommodations under the PWFA include but are not limited to; allowing telework, modification of work schedules, providing seating or standing desks, providing additional or more frequent breaks from work, more liberal food or drink policies, closer parking, or more liberal leave policies for medical appointments.

This new Act does not replace other existing federal, state or local laws that are even more protective of workers that are affected by pregnancy, childbirth or related medical conditions.

What can agencies do for guidance and compliance with this new law?

- Consider review and updates to policies.
- Provide trainings for Human Resource professionals and management team involved in evaluating accommodation requests.
- Consider drafting accommodation policies for positions in departments for the agency.

For further information, contact *Prentice|LONG, PC* for guidance to ensure compliance with the PWFA and related laws.

Understanding AB 1484: Bargaining Rights for Temporary Public Employees

By Margaret Long, Partner and Carolyn Walker, Associate

AB 1484

In the ever-evolving landscape of California employment legislation, Governor Newsom recently signed AB 1484 into law. The bill allows temporary employees of cities and counties to be included in the same bargaining unit as permanent employees who perform similar job duties. The new bill expands the Meyers-Millas-Brown Act, which already authorizes local public employees to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on matters of labor relations.

Assemblymember Rick Chavez Zbur commented:

“Temporary workers are a crucial and often overlooked workforce in California’s economy. Although they are classified as temporary, they are often rehired by the same agency year after year, suggesting that the need for the work they perform is not temporary. By including temporary employees alongside their permanent colleagues, this bill helps to give these employees a voice to bargain for fair wages and good benefits alongside their permanent counterparts.”

The bill defines “temporary employee” as a temporary employee, casual employee, seasonal employee, periodic employee, extra-help employee, relief employee, limited-term employee, per diem employee, and any other public employee who has not been hired for a permanent position.

Recently, the ratio of temporary employees to permanent employees has seen a significant rise, especially in California. Cities and counties throughout the state have increasingly turned to temporary staff to fulfill their staffing needs instead of filling vacancies or creating new permanent positions. In turn, a larger group of employees have emerged; a group of employees who frequently miss out on essential benefits from their employers including retirement plans, medical insurance, disability coverage, and job security.



Further, this growing class of employees earn lower hourly wages while performing close or identical job positions as their permanent employee counterparts. More notable than that, is that a considerable amount of these temporary employees are women and individuals from diverse racial backgrounds who lack college degrees, which exacerbates the disparity between temporary and permanent employees in the public sector labor force.

AB 1484 takes effect on January 1, 2024.

PLPC NEWS

We are pleased to report that our former law clerk, Desta Matsuda (Lugo) is shining in her first year of law school on the east coast. Desta is a northern California native who worked as a law clerk for PLPC for one year. After performing as an instrumental legal researcher for our firm, she began law school in the fall of 2022, at George Washington University Law School (GW Law) in Washington, D.C.



In her law school studies, Desta served as a first-year representative for the Environmental and Energy Law Association, and is currently a member of the George Washington Journal of Environmental and Energy Law. Over the past summer, she also served as a judicial intern at the U.S. Court of Federal Claims for the Honorable Armando O. Bonilla. This fall, she will be a legal extern at the Center for Water Security and Cooperation.

Next semester Desta will be taking administrative law, environmental law, and wildlife and ecosystems law. Environmental law and land use are proving to be the most interesting branches of law for Desta. Her favorite aspect of law school has been the opportunity to meet so many incredible people. “From my classmates and professors to law clerks and judges,” Desta stated, “I have been fortunate to meet and work alongside some very impressive individuals.” Notable alumni from GW Law include J. Edgar Hoover, William Barr, and Belva Ann Lockwood, the first female to argue before the U.S. Supreme Court.

The entire firm is very proud of Desta, and we cannot wait to see where her law school endeavors take her — hopefully back to our law firm to practice locally, once she passes the state bar!



November 14-17 | Monterey, CA



Everything Human Resources Needs To Know About Social Media

Whether it's LinkedIn, Facebook, Google+, Pinterest, Tumblr, Wikipedia, YouTube, Twitter, or Instagram, the evolution of social media has significantly changed the way people communicate, and has spilled over into the workplace. While social media can be a valuable tool, it also has the potential to create issues for public employers, e.g., employees using their personal social media accounts during work hours, "friending" of subordinate employees, and public criticism of bosses. In this session you'll learn about the changing legal landscape of social media along with the pitfalls that social media has created, including First Amendment rights of employees. You'll learn about the development of social media use policies. And you'll learn about the responsibilities of HR in communicating and enforcing social media policies, along with strategies for keeping your agency safe.

PRESENTERS:

Margaret E. Long, *Prentice|LONG*, PC and
Amanda Uhrhammer, *Prentice|LONG*, PC

November 15th, 2023

2:30 pm - 3:30 pm

Location: Steinbeck 3

You Did What? Conducting Workplace Investigations on Elected Officials

By law, when an agency receives a complaint of discrimination, retaliation, or harassment, the agency is required to conduct a thorough workplace investigation and take appropriate actions. But what happens when the complaint is against an elected official? How do you investigate your boss? How do you "discipline" someone who is not subject to discipline? In this session, through an exploration of the legal responsibilities of investigating complaints against elected officials, you'll learn practical ideas for successfully conducting the investigation and strategies for protecting your agency after the investigation is complete.

PRESENTERS:

Margaret E. Long, *Prentice|LONG*, PC and
David A. Prentice, *Prentice|LONG*, PC

November 16th, 2023

10:15 am - 11:45 am

Location: Colton



NEW CLIENTS

Prentice|LONG PC welcomes our newest clients.

County of San Benito
National Arbitration & Mediation (NAM)
Redding City Ballet

Click [here](#) to see a list of all our clients.

For more information about PLPC, visit our website [here](#).