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**AB-2329 Pupil health: eye examinations: schoolsites.** (2021-2022)

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**Assembly Bill No. 2329**

**CHAPTER 911**

An act to add Section 49455.5 to the Education Code, relating to pupil health.

[ Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2329, Carrillo. Pupil health: eye examinations: schoolsites.

Existing law requires the governing board of a school district to provide for the adequate testing of the sight and hearing of each pupil enrolled in the schools of the school district, and requires the tests to be given only by specified persons.

Existing law requires a school nurse or other authorized person to appraise the vision of a pupil during kindergarten, or upon first enrollment or entry of that pupil in a California school district at an elementary school, and in grades 2, 5, and 8, as specified. Existing law authorizes a parent or guardian having control or charge of any child enrolled in the public schools to file annually with the principal of the school in which the child is enrolled a statement in writing, signed by the parent or guardian, stating that they will not consent to a physical examination of the child. Existing law requires that child to be exempt from any physical examination, as provided.

This bill would authorize a local educational agency, as defined, to enter into a memorandum of understanding with a nonprofit eye examination provider, including, but not limited to, a nonprofit mobile eye examination provider, as defined, to provide noninvasive eye examinations consisting of providing eyeglasses to pupils at any schoolsite within the local educational agency. The bill would require eye examinations provided pursuant to the bill's provisions to be supplemental to, and to not replace, the above-referenced vision appraisals or screenings provided pursuant to existing law. The bill would require a school to provide parents and guardians with an opportunity to opt out their child from receiving these eye care services, as provided. The bill would require the State Department of Education to develop and post on appropriate department internet websites a model opt-out form for these purposes.

The bill would provide that participating licensed health care professionals shall have immunity from civil and criminal liability and immunity from any disciplinary actions from a professional licensing board for, and participating local educational agencies shall have immunity from civil and criminal liability for, providing authorized services without parent or guardian consent, except as provided.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 49455.5 is added to the Education Code, to read:

**49455.5.** (a) A local educational agency maintaining kindergarten or any of grades 1 to 12, inclusive, may enter into a memorandum of understanding with a nonprofit eye examination provider to provide eye examinations to pupils at any schoolsite within the local educational agency. Eye examinations provided under this section shall be supplemental to, and shall not replace, the vision screenings provided pursuant to Section 49455, and shall be noninvasive and provided exclusively for the purpose of providing eyeglasses. Examination providers providing eye examinations pursuant to this section shall provide reports to parents and guardians consistent with Section 49456.

(b) (1) Before an eye examination is provided at a schoolsite pursuant to subdivision (a), the local educational agency shall have a memorandum of understanding in place with a nonprofit eye examination provider, including, but not limited to, a nonprofit mobile eye examination provider, and the school shall notify parents and guardians of the upcoming provision of eye examinations at the schoolsite. Notification shall include a form on which a parent or guardian may indicate that they do not consent to an eye examination being provided, pursuant to subdivision (a), to their child. The parent or guardian may opt out of their child receiving an eye examination, pursuant to subdivision (a), by submitting the completed form to the school before an eye examination is provided at the schoolsite. Except as provided in clause (ii) of subparagraph (D) of paragraph (3) of subdivision (d), a parent or guardian who submits a written statement in accordance with Section 49451 is deemed to have opted out of their child receiving an eye examination pursuant to subdivision (a).

(2) No later than March 1, 2023, the department shall develop and post on appropriate department internet websites a model opt-out form for purposes of paragraph (1).

(c) (1) Notwithstanding any other law and subject to paragraph (3), participating licensed health care professionals, including independent contractors of those professionals, shall have immunity from civil and criminal liability, and shall not be subject to disciplinary action by a licensing board, for providing services that are authorized by this section without parent or guardian consent pursuant to this section or Section 49091.12.

(2) Notwithstanding any other law and subject to paragraph (3), participating local educational agencies shall have immunity from civil and criminal liability for providing services that are authorized by this section without parent or guardian consent pursuant to this section or Section 49091.12.

(3) This subdivision does not affect any of the following:

(A) A person's liability for damages caused by an act or omission that constitutes gross negligence or willful or wanton misconduct.

(B) A person's culpability for an act that constitutes a crime and is not specifically authorized by this section.

(C) The ability of a licensing board to take disciplinary action against a licensed health care professional for an act not specifically authorized by this section.

(D) (i) The ability of a parent or guardian, having control or charge of a pupil enrolled in the school, to file an annual written statement pursuant to Section 49451, stating that they do not consent to a physical examination of their child, thereby exempting the pupil from any physical examination, including, but not limited to, the eye examination authorized in this section.

(ii) Notwithstanding the filing of a written statement exempting a child from any physical examination in accordance with Section 49451, a parent or guardian having control or charge of any child enrolled in the school may consent to an eye examination authorized in this section by means of executing a written consent to the examination, a copy of which shall be provided to the parent or guardian and the school.

(d) Eye examination providers providing eye examinations to pupils at a school pursuant to this section are subject to, and shall comply with, Section 51520.

(e) Any nonprofit eye examination provider, participating licensed health care professional, including independent contractors of these professionals, or other entity providing services under this section shall comply with the requirements of Section 45125.1 before interacting with any pupils.

(f) For purposes of this section, the following definitions apply:

(1) "Local educational agency" means a school district, county office of education, or charter school.

(2) "Nonprofit mobile eye examination provider" means a nonprofit owner and operator of a "mobile optometric office," as defined in subdivision (a) of Section 3070.2 of the Business and Professions Code.