



COVID-19 and Its Impact On Educational Institutions

PRESENTED BY:
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A dark blue background with a light green diagonal stripe on the left side. The background is filled with a microscopic view of COVID-19 virus particles, which are spherical with a dark center and a lighter outer shell covered in small, protruding spikes. The particles are scattered across the background, with some appearing more prominent than others.

Webinar Series

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Meet Josh Morrison



- Webinar — 20th Episode
- CCCCO – Guidance: Continuity of Education for Programs Supporting the Essential Workforce
- SB 98 — Education Omnibus Budget Trailer Bill

Agenda



CCCCO – Guidance: Continuity of Education for Programs Supporting the Essential Workforce

- Guidance issued on July 6, 2020
 - Clarifies that community college districts may resume in-person instruction and training for students in programs that support the Essential Critical Infrastructure Workforce.
 - CCD critical infrastructure education and training programs are authorized as part of the “Government Operations and other community-based essential functions” under Governor Newsom’s Guidance on Essential Workforce released on April 28, 2020
 - “Workers and instructors supporting academies and training facilities and courses for the purpose of graduating students and cadets that comprise the essential workforce for all identified critical sectors.”
 - Before resuming in-person instruction for programs supporting essential workforce CCDs must implement social distancing and face covering protocols as required by the California Department of Public Health and local authorities.
 - <https://www.cccco.edu/-/media/CCCCO-Website/Files/Communications/COVID-19/Memos/continuity-of-education-and-essential-workforce-7-1-2020-a11y-v2.pdf?la=en&hash=B9E188A4F1866F3CC92ED0D155C3ED0409F2F837>



SB 98

- ALERT — <https://www.aalrr.com/newsroom-alerts-3745>
 - https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB98
 - Items highlighted in webinar
 - Distance Learning
 - Layoff
 - Instructional Days/Minutes
 - Learning Continuity and Attendance Plan
 - Charter Schools
 - Extension of Audit-Related Deadlines
 - Additional Items in Alert
 - Special Education
 - Early Childhood Education
 - Miscellaneous Provisions

Distance Learning

- Legislative preference for in-person instruction
 - SB 98 (Education Code § 43502) contains a statement that LEAs “**shall offer in-person instruction and may offer distance learning, pursuant to the requirements of this part.**”
 - SB 98 (Education Code § 43504) contains a statement that LEAs “**shall offer in-person instruction to the greatest extent possible.**”
- Permits distance learning under the following circumstances:
 - (A) On a local educational agency or schoolwide level as a result of an order or guidance from a state public health officer or a local public health officer.
 - (B) For pupils who are medically fragile or would be put at risk by in-person instruction, or who are self-quarantining because of exposure to COVID-19.



Distance Learning

- Distance Learning Permitted:
 - “As a result of an order or guidance from a state public health officer or a local public health officer”
 - California Department of Public Health (“CDPH”) guidance issued June 5, 2020, (see <https://covid19.ca.gov/pdf/guidance-schools.pdf>)
 - “Implementation of this guidance should be tailored for each setting, including adequate consideration of instructional programs . . . and the needs of students and families.”
 - Suggests distancing, with 6-foot separation presented as one option.
 - Local public health orders/guidance
 - **LEAs concerned that their local health officer order or guidance may limit the LEA’s instructional options should confer with legal counsel.**
 - Students who are: (1) medically fragile; (2) “at risk”; or (3) self-quarantining:
 - The category of “at risk” students, in particular, appears to encompass risks aside from special medical risk to the student, potentially including, risk to parents or other family members living with the student

Distance Learning

- Requirements for Distance Learning:

- (1) provision of access for all pupils to connectivity and devices adequate to participate in the educational program and complete assigned work;
- (2) content aligned to grade level standards that is provided at a level of quality and intellectual challenge equivalent to in-person instruction;
- (3) academic and other supports designed to address the needs of pupils who are performing below grade level, or need support in other areas;
- (4) special education, related services, and any other services required by a pupil's individualized education program;
- (5) designated and integrated instruction in English language development; and
- (6) **daily live interaction** with certificated employees and peers for purposes of instruction, progress monitoring, and maintaining school connectedness. (Ed. Code, § 43503(b).)

Distance Learning

- Requirements if Students Are Absent from Distance Learning
 - LEAs “shall develop written procedures for tiered reengagement strategies for all pupils who are absent from distance learning for more than three schooldays or 60 percent of the instructional days in a school week. These procedures shall include, but are not limited to:
 - verification of current contact information for each enrolled pupil,
 - daily notification to parents or guardians of absences,
 - a plan for outreach from the school to determine pupil needs including connection with health and social services as necessary, and,
 - when feasible, transitioning the pupil to full-time in-person instruction.”

Distance Learning

- Requirement to Maintain Contact With Student

- LEAs are required to “document daily participation for each pupil on each schoolday, in whole or in part, for which distance learning is provided.” Daily participation is defined to include: (1) evidence of participation in online activities (including completing assignments and assessments) or (2) contact between the LEA and the pupil or parent/guardian. Students not engaged in daily participation must be marked absent.
- “Each local educational agency shall ensure that a weekly engagement record is completed for each pupil documenting synchronous or asynchronous instruction for each whole or partial day of distance learning, verifying daily participation, and tracking assignments.”
- “A pupil who does not participate daily in either in-person instruction . . . or distance learning . . . shall be deemed absent.”

Distance Learning

- Adopt resolution identifying instructional model
 - One key to supporting discretion on this question will be having a record of the facts and circumstances that underlie the LEA's decision. Such decisions are subject to the substantial evidence test, pursuant to which courts require that there be some substantial factual basis underpinning the exercise of discretion. (See, *Lewin v. St. Joseph Hospital of Orange* (1978) 82 Cal.App.3d 368, 382.)
 - **Work with legal counsel**

Distance Learning

- General Rules:

- All LEAs must offer some amount of in-person instruction to all students. While SB 98 does not identify a minimum amount of in-person instruction, LEAs that are planning to offer only nominal (or no) in-person instruction are strongly encouraged to consult with legal counsel regarding options.
- LEAs that meet the first requirement to offer distance learning (i.e. acting “as a result of” state or local public health guidance) may offer a range of educational options, including hybrid instructional models and 100% distance learning, provided that at least one option must include some amount of in-person instruction (as discussed above). Students may then select the appropriate model.
- LEAs that meet the second requirement to offer distance learning (i.e. it is serving students who are medically fragile, at risk, or self-quarantining) may offer those students a range of educational options, including hybrid instructional models and 100% distance learning. Students may then select the appropriate model.

Distance Learning

- General Rules

- If an LEA and/or its students meet either of the requirements to offer distance learning, the LEA may offer a range of options, including hybrid instructional models as well as 100% distance learning, keeping in mind that at least one option must include some amount of in-person instruction (as discussed above). The student may then select an appropriate option.
- LEAs may offer full-time in-person instruction to all students – if permitted under applicable health orders – recognizing that: (1) state or local public health authorities may impose limits on in-person instruction; and (2) normal alternatives to in-person instruction (e.g. independent study) still apply.

Layoff — Certificated

- Certificated Summer Layoff:
- Education Code Section 44955.5(a) authorizes certificated summer layoffs if the LCFF apportionment does not increase by at least 2%
 - This section is inoperative from July 1, 2020, to July 1, 2021, inclusive.
 - Exception: A certificated employee of a school district holding a position that requires an administrative or supervisory credential may be terminated pursuant to subdivision (a).

Layoff — Classified

- Classified Layoffs (K-12 and CCD):

- (a) Given the critical role of classified employees in reopening school and college campuses and addressing the learning loss caused by COVID-19, **it is the intent of the Legislature that school districts, county offices of education, community college districts, and joint powers authorities retain all classified employees.** With the amount of funding and flexibility provided to schools and community colleges in the Budget Act of 2020, schools and community colleges should avoid layoffs of classified employees in the 2020–2021 fiscal year.
- (b) From July 1, 2020, to June 30, 2021, inclusive, the governing board of a school district, county office of education, community college district, or joint powers **authority shall not implement layoffs or releases of any permanent or probationary classified employees of the school district, county office of education, community college district, or joint powers authority who hold classifications in, or are assigned to positions in, nutrition, transportation, or custodial services.** Nothing in this section shall be construed to prohibit a school district, county office of education, community college district, or joint powers authority from terminating a classified employee for good cause.

Layoff — Classified

- Key Questions:

1. Does the statement of Legislative “intent” that no classified employee be laid off act to prevent all classified layoffs?
2. What does “implement” mean? May a school employer continue with a layoff already in progress?
3. Can a school employer still release probationary nutrition, transportation, and custodial employees for misconduct? Are they now entitled to a hearing?
4. What if a layoff would result in bumping a nutrition, transportation, or custodial employee?

ADA and Apportionment

- For the 2020-2021 school year will generally be based on ADA from the 2019-2020 fiscal year and annual period apportionment that include all full school months from July 1, 2019, to February 29, 2020. (Ed. Code, § 43502(b).)

Instructional Days and Minutes

- The number of *daily* instructional minutes needed per grade level to meet *minimum* school day requirements for the 2020-2021 school year remain the same. (Ed. Code, § 43501.)
 - 180 minutes (K); 230 minutes (1-3); 240 minutes (4-12)
 - Daily instructional minutes for in-person instruction are based on instructional time scheduled under the immediate supervision and control of a certificated employee (Ed. Code, § 43502(e)(1).)
 - Daily instructional minutes for distance learning shall be based on the time value of assignments as determined and certified by a certificated employee (Ed. Code, § 43502(e)(2).)
 - For combined in-person and distance learning, daily instructional minutes are based on the combination of the in-person instructional time and time value assigned to distance education assignments. (Ed. Code, § 43502(e)(3).)

Annual Instructional Days and Minutes

- Annual Instructional Day Requirements
 - May be met through in-person instruction or a combination of in-person instruction and distance learning instruction (Ed. Code, §§ 43502(c), 43504(c).)
 - LEAs that fail to meet the instructional day requirements will be penalized through the withholding of apportionment. (Ed. Code, § 43504(i)(1).)
 - An instructional day is a day in which all pupils are scheduled for the length of the day
- SB 98 suspends the following requirements for the 2020-2021 school year:
 - Annual instructional minute requirement
 - Physical Education minimum instructional minute requirement

Learning Continuity and Attendance Plan

- 2020-21 LCAP and Annual Update replaced by new reporting obligation of **Learning Continuity and Attendance Plan** which must address for each school:
 - in-person instructional offerings,
 - distance learning program,
 - pupil learning loss due to COVID-19,
 - monitoring and supporting mental health and well-being of pupils,
 - pupil engagement and outreach,
 - professional development,
 - provision of resources to pupils and staff to address trauma and other impacts of COVID-19, and
 - school nutrition.

Learning Continuity and Attendance Plan

- Template to be issued by the Superintendent of Public Instruction by August 1, 2020.
 - The template shall address, among other things, plans for: in-person instructional offerings, distance learning program, addressing pupil learning loss due to COVID-19, monitoring and supporting mental health and well-being of pupils, pupil engagement and outreach, professional development, provision of resources to pupils and staff to address trauma and other impacts of COVID-19, and school nutrition.
- LEA must consult designated stakeholders, including the LEA's employees, local bargaining units, parents, and pupils, and solicit recommendations and comments from the public.
- Complete and adopt plan by September 30, 2020.
- (Ed. Code § 43509)

Charter Schools

- Charter school offering distance learning in the fall not required to request a material revision.
- Charter school scheduled to open or add grade levels in 2020-21 may delay doing so without material revision, with notice by July 17, 2020.
- New Education Code sections define “continuing charter schools” and “affected charter schools” for purposes of AB 1505 and AB 1507’s changes to the geographic location and SBE authorization provisions.

Extension of Audit-Related Deadlines

- Audit of all funds for 2019-20 fiscal year by superintendents of schools and governing board of LEAs extended from May 1 to **July 15, 2020**. (Ed. Code, § 41020.9(a).)
- Filing of audit report for the 2019-20 fiscal year extended from December 15, 2020 to **July 31, 2021**. (Ed. Code, § 41020.9(b).)
- Required certification of audit reports for the 2018-19 fiscal year for county superintendent of schools extended from May 15 to **July 15, 2020**. (Ed. Code, § 41020.9(c).)
- LEA appeal of finding contained in final audits certified by Controller between March 1 and July 15, 2020 extended from 90 days to **within 120 days** of date LeA receives final audit report. (Ed. Code, § 41020.9(d).)
- LEA request for summary review of audits certified by Controller between March 1 and July 15, 2020 extended from 30 days to **within 90 days** of the date the LEA receives the final audit report. (Ed. Code, § 41020.9(e).)

Thank You

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