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LEGAL UPDATE

July 20, 2020

To: Superintendents, Member School Districts (K-12)

From: Jennifer Henry, Associate General Counsel *J.H.*
Carl D. Corbin, General Counsel *CDC*

Subject: California’s New School Distance Learning and Closure Rules
Announced
Memo No. 43-2020

On Friday, July 17, 2020, Governor Gavin Newsom announced a new five-point pandemic plan for re-opening schools, which directs schools to the updated California Department of Public Health (“CDPH”) Directive on Re-opening In-Person Learning, and the CDPH/Cal-OSHA Updated COVID-19 Guidance for Schools (“Guidance”) – please see the bottom of this Legal Update for links to these documents.

1. In-Person Instruction Based on County Health Data

A. Schools May Only Reopen When Off the Watch List for 14 Calendar Days

Schools located in counties that are on the CDPH watch list may not provide in-person instruction until their county has been off the watch list for 14 calendar days. Counties that are currently on the watch list include: Napa, Solano, and Sonoma (for a total of 33 Counties). There is one exception: a superintendent may request a waiver from the county health officer to open in-person instruction for elementary schools, after consulting with labor, parents, and community-based organizations.¹

Schools in counties on the watch list must provide online/distance education that meets the state’s new “rigorous” requirements.

¹ The waiver does not apply to middle schools or high schools, but does apply to a K-5, K-6, or K-8 school.



B. School Closures Based on Number of COVID-19 Cases

Following a confirmed case of a student who was at school during the student’s infectious period, other students (in the student’s cohort) and exposed staff (teaching the student’s cohort) should be quarantined for 14 calendar days.

A single school site must close and revert to distance learning when either:

- Multiple cohorts have COVID-19 cases (A cohort is a small group of students who are to stay together for all courses and activities per the CDPH guidelines); or
- Five percent of students and staff test positive in a 14-day period.

An entire district must close and revert to distance learning when 25 percent of schools in the district have closed due to COVID-19 in a 14 calendar day period.

Please see attached chart of measures to take based upon symptoms or confirmed cases, which is an excerpt from the CDPH Directive.

Once a school or school district is closed after 14 calendar days, the school/school district may reopen with the approval of their local public health officer, after meeting cleaning requirements.

2. Mask Requirements

All staff and students in 3rd grade and above are required to wear a mask or face covering. Students in 2nd grade and below are strongly encouraged to wear a face covering. The school should provide face coverings for students if they do not have one. The Guidance provides: “...schools must exclude students from campus if they [students] are not exempt from wearing a face covering under CDPH guidelines and refuse to wear one provided by the school.”

3. Physical Distancing

All adults must stay 6 feet from each other and 6 feet from children. Students should stay 6 feet from each other as much as possible. All people entering the school must go through a health screening, and any student or staff member who has a fever or other COVID-19 symptoms must immediately be sent home. If any student or staff member has a member of their household that is sick, it is strongly recommended that the student or staff member stay home.

4. Regular Testing and Contact Tracing

The Guidance provides school districts and schools:

[S]hall test staff periodically, as testing capacity permits and as practicable. Examples of recommended frequency include testing all staff over 2 months,



where 25% of staff are tested every 2 weeks, or 50% every month to rotate testing of all staff over time.²

5. **Rigorous Distance Learning**

School districts are required to provide:

- Devices and connectivity so that every child can participate in distance learning;
- Daily live interaction for every child with teachers and other students;
- Class assignments that are challenging and equivalent to in-person instruction; and
- Targeted supports and interventions for English learners and special education students.

For further detail on the requirements listed above, see California Department of Public Health/Cal-OSHA Updated COVID-19 Guidance for Schools:

<https://files.covid19.ca.gov/pdf/guidance-schools.pdf>.

To verify if your county is on the watch list: <https://covid19.ca.gov/roadmap-counties/#track-data>.

For Governor Newsom's five-point pandemic school plan summary:

<https://www.gov.ca.gov/2020/07/17/governor-gavin-newsom-lays-out-pandemic-plan-for-learning-and-safe-schools/>.

For the July 17, 2020, CDPH Directive on Reopening In-Person Learning:

<http://www.egusd.net/wp-content/uploads/2020/07/CDPH.Schools-Reopening-Recommendations.7.17.20.pdf>.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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² Please see the Guidance for more detailed information.



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GAVIN NEWSOM
Governor

What measures should be taken when a student, teacher or staff member has symptoms, is a contact of someone infected, or is diagnosed with COVID-19?

	Student or Staff with:	Action	Communication
1.	COVID-19 Symptoms (e.g., fever, cough, loss of taste or smell, difficulty breathing) Symptom Screening: Per CA School Sector Specific Guidelines	<ul style="list-style-type: none"> • Send home • Recommend testing (If positive, see #3, if negative, see #4) • School/classroom remain open 	<ul style="list-style-type: none"> • No Action needed
2.	Close contact (†) with a confirmed COVID-19 case	<ul style="list-style-type: none"> • Send home • Quarantine for 14 days from last exposure • Recommend testing (but will not shorten 14-day quarantine) • School/classroom remain open 	<ul style="list-style-type: none"> • Consider school community notification of a known contact
3.	Confirmed COVID-19 case infection	<ul style="list-style-type: none"> • Notify the local public health department • Isolate case and exclude from school for 10 days from symptom onset or test date • Identify contacts (†), quarantine & exclude exposed contacts (likely entire cohort (††)) for 14 days after the last date the case was present at school while infectious • Recommend testing of contacts, prioritize symptomatic contacts (but will not shorten 14-day quarantine) • Disinfection and cleaning of classroom and primary spaces where case spent significant time • School remains open 	<ul style="list-style-type: none"> • School community notification of a known case
4.	Tests negative after symptoms	<ul style="list-style-type: none"> • May return to school 3 days after symptoms resolve • School/classroom remain open 	<ul style="list-style-type: none"> • Consider school community notification if prior awareness of testing

(†) A contact is defined as a person who is <6 feet from a case for >15 minutes. In some school situations, it may be difficult to determine whether individuals have met this criterion and an entire cohort, classroom, or other group may need to be considered exposed, particularly if people have spent time together indoors.

(††) A cohort is a stable group with fixed membership that stays together for all courses and activities (e.g. lunch, recess, etc.) and avoids contact with other persons and cohorts.

