



Senate Education Committee
Senate Budget and Fiscal Review Subcommittee Number 1 on Education

Informational Hearing

Governor's Safe Schools for All Plan: Will it Help Schools Open Safely?

Thursday, January 21, 2021 – 10:30 a.m.
Room 4203

I. Welcome and Introductions

II. Jessica Holmes, Department of Finance

Brooks Allen, Executive Director, State Board of Education

Amy Li, Legislative Analyst's Office

III Richard Barerra, Board President, San Diego Unified School District

Shelly Viramontez, Superintendent, Campbell Union School District

Chris Evans, Superintendent, Natomas Unified School District

IV David Schapira, California School Employees Association

Lori Easterling, California Teachers Association

Tristan Brown, California Federation of Teachers

Background:

Early Pandemic Response and Spring 2020 School Closures

As the COVID-19 Pandemic emerged as a threat to the health and safety of Californians in the spring of 2020, immediate actions were taken to prevent the spread of the virus. Upon the advice of local public health agencies, most Local Educational Agencies (LEAs) closed schools on or around March 16, 2020. Also, in March of 2020, the Legislature and the Governor enacted various pieces of legislation to ensure flexibility for the K-12 education systems. Specifically, for the purpose of funding, LEA student attendance for the 2019-20 school year was modified to include full school months between July 1, 2019 and February 29, 2020. This action ensured that LEAs received funding for the full school year regardless of the closure of schools in response to COVID-19.

Through an Executive Order, N-26-20, the Governor included direction that LEAs would continue to receive funding through COVID-19 related closures if they met certain requirements and encouraged schools to prioritize funding to: 1) continue to provide instruction; 2) continue to provide school meals; 3) arrange for supervision of students during school hours; and 4) continue to pay employees. In addition, the order also clarified that the LEA may offer distance learning or independent study to impacted students and waived all laws that may state otherwise.

In addition, \$100 million in one-time Proposition 98 General Fund was provided to LEAs for costs associated with maintaining nutrition services, cleaning and disinfecting facilities, personal protective equipment, and materials necessary to provide students with opportunities for distance learning. The funds were prioritized for health and safety needs for LEAs, including for student meal access, during COVID-19 closure periods.

In general, LEAs shifted to a distance learning model for the remainder of the 2019-20 school year, focusing on providing devices to students, internet connectivity, arranging for virtual instruction, and making school meals available for pickup. Services provided varied by LEA.

2020-21 Budget Actions

The 2020-21 Budget Act provided additional structure for school operations in the 2020-21 school year. In general the assumption as of the final 2020 Budget Act in June of 2020 was that LEAs would return to in-person instruction as the default mode of instruction, however given the potential for exposures, need for isolation, and potential disruptions of in-person instruction, the budget and accompanying trailer bill language provided flexibility to LEAs moving into the 2020-21 school year as follows:

- A hold-harmless is provided for the purpose of calculating the LCFF apportionment in the 2020-21 fiscal year; generally using the average daily attendance (ADA) in the 2019-20 fiscal year reported from July 1, 2019, to February 29, 2020 for funding purposes. This hold harmless ensures LEAs stable funding in 2020-21 and, because current law already allows school districts to use the greater of prior or current year ADA for funding purposes, this also ensures a stable level of funding in the 2021-22 school year also. Charter schools are not guaranteed the same

declining enrollment protection. Some allowances were made for ADA growth in 2020-21 through clean-up legislation.

- LEAs were required to offer in-person instruction to the greatest extent possible and may offer distance learning, as defined in statute for the 2020-21 school year. LEAs were required to meet instructional day requirements through a combination of in-person and distance learning instruction.

The 2020-21 Budget Act also included funding specifically related to the K-12 Education Pandemic Response as follows:

- **Learning Loss Mitigation.** The 2020 budget appropriated a total of \$5.3 billion in one-time funding (\$4.4 billion federal Coronavirus Relief Fund, \$355.2 million federal Governor’s Emergency Education Relief Fund and \$540 million Proposition 98 General Fund) to address learning loss and other impacts of COVID-19. Funding is required to be used to directly support pupil academic achievement and mitigate learning loss related to COVID-19 school closures, including academic programs, services, and supports to address learning loss, extended instructional minutes and services, additional materials, including devices or internet connectivity, and other supports related to health, mental health, professional development, and school meals among others. Eligible uses may also include cleaning and safety measures for re-opening schools.
- **Other Resources:** LEAs also received \$1.4 billion in federal funds that were distributed directly based on federal Title I allocation formulas. The 2020 budget also included additional funding to support school nutrition programs and LEAs also received some personal protective equipment provided through state funding designated for the pandemic response, through the Office of Emergency services.

Public Health Requirements. The California Department of Public Health (CDPH) and local health jurisdictions (LHJ) have provided guidance for school re-opening and safety throughout the pandemic. During the summer of 2020, CDPH released guidance that ranked counties into color coded tiers by severity of infection levels based on test positivity and case rates and required for certain measures to be in place based on the tier.

In July of 2020, the Governor announced that schools in a county that is in the widespread, or purple, tier 1 (more than 7 new cases per day per 100,000 population) were not permitted to reopen for in-person instruction. (Tier 1 was previously referred to as “the county monitoring list.”) However, schools in tier 1 may provide supervision of children in accordance with guidance released from CDPH for providing in-person services for specified at-risk groups in small cohorts. Schools can reopen for in-person instruction once their county has been in the substantial, or red, tier for fourteen days. Schools that have reopened for in-person instruction are not required to close if their county moves back to the purple tier. In addition, an LHJ may continue to implement or maintain more restrictive public health measures if the local health officer determines that health conditions in that jurisdiction warrant such measures.

This guidance required many LEAs that had planned to re-open in person in the fall to change course and arrange for distance learning for all of their students. In addition CDPH guidance laid out recommendations for mask wearing, physical distancing, testing and tracing, among other safety requirements for schools that did open in person.

Waiver Process.

The CDPH guidance also allowed local health officers to grant a waiver of the school re-opening criteria, in order for elementary schools to open for in-person instruction for grades TK through 6 under specified conditions. Those LEAs that apply for the waiver were required to consult with labor, parent, and community organizations and complete a re-opening plan that details steps to ensuring the safety of students and staff. The guidance recommended that local health officers not approve waivers in counties where the numbers of coronavirus infections are more than 200 cases per 100,000 population over a 14-day period (roughly equivalent to twice the county monitoring or tier 1 threshold).

Updated Guidance

On January 14, 2021, the CDPH released updated guidance, and an effort was made to combine existing guidance and resources for LEAs through one webpage, <https://schools.covid19.ca.gov/>. This updated guidance replaces the previous guidance, and waiver requirements, although previously granted waivers remain valid.

Under this updated guidance, all schools must complete and post to their website homepages a COVID-19 Safety Plan (CSP) prior to reopening for in-person instruction. Schools that have already reopened are required to post their CSPs by February 1, 2021. The CSP is intended to consolidate requirements to develop written plans pursuant to CDPH guidance first issued in May 2020 and the Cal/OSHA Emergency Temporary Standards finalized in November 2020 (schools are already required to have completed the Cal/OSHA COVID-19 Prevention Program plan per these standards). Schools must also submit a copy of the CSP to the LHD and the State Safe Schools for All Team (a newly created cross agency team that is composed of dedicated staff from the California Department of Public Health (CDPH) and Cal/OSHA, and educational agencies) before they reopen elementary schools if they are operating within a jurisdiction or county that is in the Purple Tier.

This guidance further reflects that schools in counties in the yellow, orange, and red tiers may reopen for in-person instruction and are required to complete and post the CSP to their website homepages. In the purple tier, schools may not reopen for grades 7-12, but may re-open for grades K-6 for in-person instruction in the purple tier, including during a State of California Regional Stay at Home Order, if they complete and post a CSP to their website homepage and submit the CSP to their local health officer (LHO) and the State Safe Schools for All Team and there are no identified deficiencies. Schools serving students in grades K-6 may not reopen for in-person instruction in counties with an adjusted case rate above 25 cases per 100,000 population per day. They may post and submit a CSP, but they are not permitted to resume in-person instruction until the adjusted

case rate has been less than 25 per 100,000 population per day for at least 5 consecutive days.

Coronavirus Testing

CDPH guidance has recommended that the schools have a plan for testing of staff and students who display symptoms (symptomatic testing) and those who are exposed to the coronavirus (response testing). For those in the purple, the CDPH has recommended schools consider surveillance testing to monitor the spread of coronavirus.

New guidance released by the CDPH on January 14, 2021 notes that science regarding the need for asymptomatic testing is still under development and that schools have re-opened safely using the core mitigation strategies outlined in the School Guidance (such as social distancing, masks, and other protocols) under a range of asymptomatic testing approaches (from none to every other week). However, the guidance also notes that the state has put in place a technical assistance team to support schools as they implement specified testing cadences (in addition to symptomatic and response testing for students and staff as needed in all tiers, asymptomatic testing every two weeks in the red and purple tiers and every week in the deep purple tier for staff and students) through supplemental testing supplies, shipment, laboratory capacity, enrollment and reporting technology, training, and assistance with insurance reimbursement. According to the Governor's Office, the state's technical assistance supports will be in place by February 1st, 2021.

Many LEAs have arranged for testing in a variety of ways. Some LEAs are relying on testing provided to the public through their local health jurisdictions, others have contracts with specific labs, or are working with their health care providers. In addition, the state has announced that they have opened the CDPH Valencia Branch Laboratory, designed to increase the state's COVID-19 testing capacity, reduce test turnaround time, and leverage the state's buying power to reduce the cost of tests for LEAs. Built in partnership with PerkinElmer, the laboratory began processing tests the first week of November 2020. Through a website launched on January 14, 2021, LEAs may submit forms to partner with the CDPH Valencia Branch Laboratory to expand COVID-19 testing. The CDPH Valencia Branch Laboratory, is reported to be able to eventually conduct an additional 150,000 tests per day, and the Administration has indicated approximately 60,000 of those may be available for school tests. Depending on the options that LEAs choose for testing and the testing cadence they are implementing, they may be using LEA staff, such as school nurses, or contracting out to administer the tests. They may also be contracting separately for peripheral services.

Coronavirus Vaccines

There are currently two vaccines approved for use, and doses have been provided to states since December 2020 and continue to be provided as production makes them available. The CDPH and LHDs manage the allocation of distthe doses to vaccine providers in each county. All vaccination providers have been directed to vaccinate all persons in Phase 1A (health care workers and residents of long term care facilities), then begin vaccinating those in Phase 1B Tier One, which includes individuals 65 and older,

and those at risk of exposure at work in the following sectors: education and child care, emergency services, food and agriculture. Teachers and classified school employees fall into Phase 1B and many counties are moving to this Phase for vaccine distribution, however the ability of school staff to be vaccinated may depend on many factors including the number of people who need to be vaccinated in Phase 1A, the number of doses available in the county, and the access of specific health care providers to vaccines. Although the state, along with many others in the country, have been slow to administer available vaccines, the Governor has announced recent efforts to speed up vaccinations.

Reporting

Prior to the pandemic, minimal information was collected about the specifics of how schools were serving students as long as they were meeting the minimum instructional day and minute requirements. For the 2020-21 school year, given the changes in the way schools are serving students, additional statewide information is needed. As a result, CDPH issued a directive on January 14, 2021 that the following information will now be collected:

- Beginning January 25, 2021, every LEA (school district, county office of education, and charter school) and private school in California shall notify the California Department of Public Health every other week on whether it is serving students in-person, including with specified details on the type of in-person instruction.
- Effective immediately, every LEA (school district, county office of education, and charter school) and private school in California shall notify its local health officer of any known case of COVID-19 among any student or employee who was present on a K-12 public or private school campus within the 10 days preceding a positive test for COVID-19. This notification must be within twenty-four hours from the time an individual within the local educational agency or private school is first made aware of a new case

Governor's Budget Proposal:

On December 30, 2020, the Governor released a proposal, The State Safe Schools for All Plan. This plan would provide \$2 billion in one-time Proposition 98 funds for a grant program targeted at school districts that re-open in February and March of 2021. The Governor has requested that the Legislature take this up through early action in January.

More specifically, this proposal would provide for two rounds of state funding:

- Funding Round I would require LEAs to apply by February 1, 2021 with an application that includes a completed CSP, per updated CDPH guidance, and a copy of ratified collective bargaining agreements that align with the CSP. In addition, the LEA would need to certify that each of its pupils in distance learning has access to a device and connectivity. And:
 - By February 16th provide optional in-person instruction to at least all pupils in the following groups: students with disabilities, foster and homeless

- youth, students without access to a device or connectivity, transitional kindergarten through grade 2 students.
 - By March 15th provide optional in-person instruction to all pupils up to and including grade 6.
 - In-person instruction must be provided through the end of the 2020-21 school year.
 - Grants would provide \$450 base grant per ADA adjusted for LCFF grade span, and supplemental and concentration percentages.
- Funding Round II would require LEAs to apply by March 1, 2021 with an application that includes a completed CSP, per updated CDPH guidance, and a copy of a ratified collective bargaining agreements that align with the CSP. In addition, the LEA would need to certify that each of its pupils in distance learning has access to a device and connectivity. And:
 - By March 16th provide optional in-person instruction to at least all pupils in the following groups: students with disabilities, foster and homeless youth, students without access to a device or connectivity, transitional kindergarten through grade 6 students.
 - In-person instruction must be provided through the end of the 2020-21 school year.
 - Grants would provide \$337.50 base grant per ADA adjusted for LCFF grade span, and supplemental and concentration percentages.
- LEAs that are unable to open because adjusted case rates are above 25 per 100,000 COVID-19 rates are able to apply for either round of funding as long as they meet all of the grant requirements and re-open for the required student groups as soon as case rates drop below this level for at least five consecutive days.
- LEAs applying for this grant must also conduct ongoing asymptomatic testing of staff and pupils consistent with the state-supported cadences set forth in the updated CDPH testing guidance.

Under this proposal, funds would be available until December 31, 2021 and may be used for any purpose consistent with providing in-person instruction, including, but not limited to:

- Salaries for certificated or classified employees providing in-person instruction or services
- Social and mental health support services provided in conjunction with in-person instruction
- COVID-19 testing
- Personal Protective Equipment
- Ventilation and other site upgrades necessary for health and safety

LAO Analysis:

The LAO's recent publication, *The 2021-22 Budget: Overview of the Governor's Budget*, included a brief analysis of the Governor's Re-opening Proposal. The LAO identifies a few significant overall concerns with the proposal, specifically that the time frames provided for in the proposal may be too short for school districts to meet the requirements of funding. The LAO notes that in order to open by February 16th, schools would only have a few weeks to complete their reopening plans, arrange routine testing, and develop collective bargaining agreements with their labor unions. In addition, the LAO notes that it is unclear if the state and local health departments have the capacity to provide the support and technical assistance necessary planned for in the proposal under the time frames identified.

The LAO recommends that the Legislature consider whether the proposal provides sufficient time for planning and whether the schools and public health agencies have the capacity to effectively implement the requirements under the time lines specified.

The LAO also provides the following suggestions for consideration:

- Modify the proposal to first offer in-person instruction to all high-needs students a month before bringing back all younger students. This would allow time for schools to ramp up testing capabilities and address other implementation issues with a smaller group of students and staff.
- Alternatively, direct resources to expanding statewide testing capacity and infrastructure that would allow schools to more easily access routine testing as a way to support school reopening.

Staff Comments

Staff notes that this proposal should be considered in conjunction with other Proposition 98 funding proposals and new federal stimulus funds for education. The Governor makes the case for immediate action for the appropriation of these funds to incentivize the re-opening of schools. The Legislature may want to ensure that school districts are able to open safely under the timelines and parameters of this proposal and more specifically, to consider if this proposal actually incentivizes school districts serving the most vulnerable children to re-open safely for both staff and students. The Legislature may also wish to weigh the use of funds for this purpose, against other potential uses of the funds that would benefit students.

In regards to funding, staff notes that there are also the following potential major resources for schools as they work on supporting their students during this time:

- 2021-22 Governor's Budget Proposal - \$4.6 million in one-time Proposition 98 Funds for targeted interventions for students (including summer school, extended year, or other targeted strategies).
- Elementary and Secondary School Emergency Relief Fund (ESSER) to be distributed directly to schools on a Title I formula basis - \$6 billion one-time.
- ESSER Set-Aside Funds - \$671million for schools to be programmed through legislation.

- Potential additional federal stimulus funds for schools under the new federal administration.

A final funding note is that in order to reduce Proposition 98 expenditures to the minimum guarantee level, but shield LEAs from the impact of cuts, the 2020 budget agreement included deferrals of payments from one year to the next. Specifically, the budget deferred a total of \$11 billion in principal apportionment payments to LEAs reducing apportionments for the Proposition 98 Guarantee by this amount in 2020-21 in order to meet the Proposition 98 Guarantee as of the 2020 Budget Act. The 2021-22 proposed budget includes paying down \$7.3 billion in deferrals in 2021-22, while the remainder of \$3.7 billion would continue to be deferred from 2021-22 to 2022-23 and in ongoing years. The Legislature may wish to consider the potential to use additional Proposition 98 funds to further pay down the deferrals, a choice which could impact this proposal.