

Update on Legislative Plan for School Reopening – SB 86

This morning the Senate and Assembly [released their legislative plan for school reopenings \(Senate Bill 86\)](#), which would establish a \$2 billion grant for local educational agencies offering in-person instruction to vulnerable groups and TK-6 students in Red Tier counties.

Overview of the two-house deal. The plan would not mandate any reopenings, would not prohibit reopening in the Purple Tier and would not require vaccines to be offered to educators prior to reopening. Existing plans would be grandfathered if collective bargaining agreements reflect those plans or are updated to do so.

The plan also includes \$4.6 billion for grants to provide supplemental instruction, which we describe below.

This is a two-house deal, meaning the Governor has not yet agreed to the provisions. Recent statements by the Governor have indicated reticence around any reopening plan that creates new barriers to reopening. SB 86, meanwhile, includes strong conditions around collective bargaining and asymptomatic testing for LEAs whose COVID-19 safety plans are not completed by March 15.

Conditions to receiving the in-person grants. The Legislature recast the Governor's incentive grant as an optional block grant. Schools may opt to not participate and therefore would not be subject to the conditions below (where they differ from existing laws and guidance). The conditions to receive that grant are as follows:

Safety plans, testing, and CBAs. By April 1, an LEA must have completed and submitted the following elements: (1) a COVID-19 safety plan, (2) a description of how the LEA will conduct asymptomatic testing of staff and pupils consistent pursuant to the CDPH cadence, and (3) a ratified certificated and classified CBA/MOU that supports the implementation of the COVID-19 safety plan.

Two exceptions apply. First, an LEA is not required to comply with the CDPH asymptomatic testing cadence if they have adopted and posted a plan for in-person instruction "for any pupils" by March 15, 2021, including ratified CBA/MOUs for certificated and classified employees that support implementation of the adopted COVID-19 school safety plan.

Second, an LEA "does not need to renegotiate those agreements in order to be eligible" for the grant if it already has a ratified CBA/MOU that supports implementation of its COVID-19 safety plan.

Must offer in-person instruction to specified groups at all grade levels. By April 15, an LEA must offer in-person to at least all of the following pupil groups:

- Individuals with exceptional needs.
- Foster youth.
- Homeless pupils.
- English learners.
- Pupils without access to a computing device, software, and high-speed internet necessary to participate in online instruction, as determined by the local educational agency.
- Disengaged pupils.

- Pupils at risk of abuse, neglect, or exploitation.

Reopening in the Red Tier. By April 15, LEAs in Purple Tier counties (greater than 7/100,000) must offer instruction to TK-6, in addition to the above cohorts, within 15 days of the adjusted case rate dropping to Red Tier (7/100,000 or lower).

For both sets of pupils above, an LEA must offer continuous in-person instruction through the end of the scheduled 2020–21 school year (as defined by the LEA as of April 1, 2021), unless otherwise ordered by a state or local health officer.

\$4.6 billion for supplemental instruction and student supports. The plan also includes \$4.6 billion for grants to provide supplemental instruction, support pupils' social and emotional well-being, and provide meals and snacks to participating pupils. The grants are specifically targeted for English learners, foster youth, homeless youth, special needs students, low-income students, and "pupils at risk of abuse, neglect, or exploitation, disengaged pupils, and pupils who are below grade level." These funds will be disbursed in two equal apportionments in April and July 2021, and may be spent through September 30, 2022.

Vaccines. County public health departments shall make COVID-19 vaccines available to school site personnel who are working at a school site where pupils are attending in person.