



association of california  
school administrators

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June 2, 2021

Chair David Thomas and Members  
Occupational Safety and Health Standards Board  
Department of Industrial Relations, State of California  
2520 Venture Oaks Way, Suite 350  
Sacramento, CA 95833

Submitted electronically: [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov)

**RE: Proposed re-adoption of the COVID-19 Emergency Temporary Standards (ETS)**

Dear Chair Thomas and Members of the Board:

The Association of California School Administrators (ACSA) and the undersigned statewide education associations, school districts, and county offices of education write to express our concerns for the proposed re-adoption of the COVID-19 Emergency Temporary Standards (ETS).

We are pleased the Board delayed adoption of the amended ETS in order to address concerns raised by stakeholders. We appreciate the resolution of a number of provisions that were inconsistent with updated science and guidance from the CDC. Unfortunately, a number of proposed changes in the updated regulations are not only going to hinder school reopening but continue the confusion and unnecessary concern experienced by school leaders tasked with ensuring the safety of all employees and students.

The proposed updated ETS perpetuate the serious challenges to Local Education Agencies (LEAs) whose specialized role in educating the children of California has been perhaps the top priority focus of the executive and legislative branches of the State since the pandemic began. The newly proposed ETS is inconsistent with the Governor's announcement that the state will be reopening by June 15<sup>th</sup>. Under these new regulations, everyone but employees working indoors will be relieved from most requirements imposed since the beginning of COVID-19.

We have many concerns regarding the proposed ETS. The most significant are the following:

1. The amended ETS should be consistent with California's reopening on June 15<sup>th</sup> not a new, arbitrary date of July 31<sup>st</sup>. LEAs have complied with the ever changing and updated

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guidance specifically aimed at the safe return of our students and staff. Distancing requirements have been relaxed for students but under the proposed ETS are still required for employees. The revised ETS are contrary to the momentum undertaken by LEAs statewide to reopen this summer and fall.

2. LEAs should be required to provide properly fitted masks in compliance with CDC and CDPH guidelines. Requiring N95s masks for all unvaccinated employees who work indoors is untenable. Further, the proposed requirement that N95s be provided but that wearing them is optional unnecessarily complicates existing efforts. Simple masking has been scientifically proven to reduce the spread of COVID-19. Up until now, employers were required to provide face masks if an employee is outdoors and within 6 feet of another employee or when indoors. Providing face masks in compliance with CDC and CDPH guidelines should suffice.
3. Exposed groups should only include employees. Under federal law, LEAs are required to provide services to any student with an Individual Disability Education Assessment. Specialized services are often provided from others besides our own employees. Cal OSHA has a responsibility to protect employees but including employees from other employers, especially when we are mandated to provide these services, is an additional burden for LEAs.
4. New and expensive outbreak protections is an unfunded mandate for LEAs. We have negotiated safety measures with our labor partners and followed all of the guidance from the CDC and CDPH. Retrofitting classrooms again is a unique burden to LEAs. And new requirements proposed in the revised ETS could force us back to the bargaining table at a time when employees are leaving for their summer break.
5. Portable HEPA filtration requirements are another unfunded mandate and an expansion from prior guidance. The revised ETS changes the requirement for employers to provide portable HEPA filtration in the case of a major outbreak to an outbreak identified as three COVID-19 cases.

Cal OSHA serves a vital role in protecting employee safety and welfare. However, it is difficult for rapid changes to be made to the ETS to reflect updated science and data around COVID-19 transmission and mitigation strategies. The inability to respond quickly to changes has real consequences for students, staff and families since LEAs are forced to abide by Cal OSHA requirements.

These changes further expose LEAs to increased liability. Many LEAs have been able to avoid litigious liability exposure due to their ability to comply with existing CDC and CDPH guidelines. However, the proposed ETS will cause many LEAs to struggle to meet these requirements further exposing them to costly and unnecessary litigation.

As representatives of LEAs, we request the Board exempt schools from the ETS so we can continue to follow the constant changing science and guidance issued by the CDC and CDPH. Every Cal OSHA regulation that is in contrast to the CDC and CDPH provides uncertainty to school employers. The new proposed changes will impact many schools set to reopen in mid-July and force a redirection of funding after school budgets have already been finalized.

Sincerely,

A handwritten signature in black ink that reads "Laura Preston". The signature is fluid and cursive, with a long horizontal stroke at the end.

Laura Preston  
Legislative Advocate  
Association of California School Administrators  
On behalf of

California School Boards Association  
California Association of Suburban School Districts  
California County Superintendents Educational Services Association  
Central Valley Education Coalition  
Coalition for Adequate School Housing  
Small School Districts' Association  
School Employers Association of California  
Kern County Office of Education  
Riverside County Office of Education  
Santa Clara County Office of Education  
San Diego County Office of Education  
Ventura County Office of Education  
Antelope Valley Union High School District  
Baldwin Park Unified School District  
Capistrano Unified School District  
Compton Unified School District  
Elk Grove Unified School District  
Fontana Unified School District  
Irvine Unified School District  
Merced City School District  
Napa Valley Unified School District  
Newport-Mesa Unified School District  
Norwalk-La Mirada Unified School District  
Palmdale School District  
Palo Alto Unified School District  
Palos Verdes Peninsula Unified School District

Pasadena Unified School District  
Redondo Beach Unified School District  
Riverside Unified School District  
San Bernardino City Unified School District  
San Ysidro School District  
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Temecula Valley Unified School District  
William S. Hart Union High School District

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