



## 3:30 pm All-Superintendents Meeting: AB 167 - September 13, 2021

### Guests:

- Brooks Allen - Executive Director, State Board of Education
- Jessica Holmes - Department of Finance
- Wendi McCaskill - California Department of Education

CCSESA provided this overview to AB 167 [for Members](#)

### Notes:

Our guests were on to discuss some of the major changes/differences from AB 130 → AB 167

- AB 167 is clarifying AB 130. The overall intent is a real focus on continuity of instruction for students when they can't be in the classroom.
- Brooks added the context of AB 130 being written before the Delta surges, or having any idea of how the large number of quarantines would complicate schools reopening.
- Last week, CDE released these documents.
  - [Did You Know](#)
  - [IS for 2021-22 Based on AB 130 and Amendments in AB 167](#)
  - [How to Minimize Exposure, Transmission, and Quarantining](#)

### J-13A

The process is used when there is a material loss of attendance or school closure due to emergency. The J-13A request helps LEAs recover instructional time.

What is different this year:

- For non-COVID-related J-13A requests, the only difference is the IS plan certification after September 1. This applies to all requests, even if the LEA has a waiver on the requirement to offer IS.
- For COVID-related J-13A requests, the application is solely related to staffing shortages due to staff quarantines. It is not available for student quarantines. There are additional conditions/certifications. The LEA must have exhausted all options for obtaining staff coverage and has consulted with their COE and the SPI/CDE to determine that staffing needs cannot be met through any other option. Jessica will provide CCSESA with the contact at CDE for providing this technical assistance.

- There are special rules about what ADA is recoverable when it comes to community day schools (not to be confused with “community schools”) and students with IEPs where IS is not acceptable.
- An LEA with a waiver must still have a plan to offer IS if it seeks a J-13A.

#### Questions from the Chat:

Michelle Hutchins: To be clear, if a small school district has a waiver for IS because of lack of staffing and is forced to put students on quarantine, can they use a J13A for material decreases for staffing shortages to recover ADA for the students on quarantine? Can a district that has a waiver for IS offer IS to just students on quarantine?

- Answer: Haven't seen an exception in statute for LEAs that have a waiver, in regard to the J13A waiver. You can provide IS even though you have the waiver to the students on quarantine.
- Path forward for smalls that are struggling with staffing issues. Encourage those to reach out for TA to CDE.
- Jessica Holmes: the idea behind all of this that students receive continuity of instruction when they aren't in the classroom. This isn't about penalizing people for COVID; it's not a “gotcha”. We want everyone to succeed. Reach out to the resources available. (She also noted that someone at CDE will be available to answer technical assistance questions around this and she will provide the contact information to Derick later, of which we will share when we get it).

Stacey Adler: Ensuring certification [of an IS plan] and including an independent study plan must accompany a J13A for any number of days? Closed for one day (example- snow day), still have to provide a plan?

- Answer: Yes, the plan is a requirement. If you have multiple days for the same reason (3 snow days in a row), a plan is in place.

Susan Salcido: May you please clarify how J13 applies when a district has a waiver for IS (related to having a plan for IS that will be certified)... Thank you!

- Answer: Yes, that requirement does apply even if they have a waiver. When they file for that J13A, anything after September 1 requires the IS plan.
- See Section 46393(b). LEAs that have a waiver of the requirement to offer independent study must nevertheless certify their plan to offer independent study for purposes of a J-13A. But they are not required to include tiered reengagement strategies, live instruction and synchronous minimums, and a five-day return to the classroom upon request.

Gayle Garbolino-Mojica: If a district closes for a handful of student cases without the consent of the public health officer, without meeting the criteria in 167 (for staff shortages), does not offer IS

during the closure, what are they risking? ADA for those days....are there any other penalties?  
Closed Monday, August 30th - Friday, September 10.

- Answer: The biggest concern that comes to mind on the days that school was closed, especially after September 1, if they weren't offering IS, then there would be an instructional time issue. They are missing the minimum requirements.
- Biggest issue is not meeting the compulsory time requirements. They may need to add days to the end of their calendar and renegotiate with labor.

Rich Duvernay: Not a lot of clarity around the waiver. My understanding is the County superintendent grants the waiver, because the district can't staff. As the school year progresses and the district goes into quarantine, they are still required to provide instruction.

- Answer: For an LEA that has a waiver, there are a few different ways that they can apply for a J13A waiver to recover the attendance and instructional minutes, but they have to have a plan attached. The LEA is encouraged to provide as much continuity of instruction as possible. Whatever can be done, should be done.
- Original thought for the waiver was for families that weren't comfortable coming back. This newer scenario is the covid outbreak where you need to close things down. You need staff available to provide IS, as they aren't in-person anymore.

Sarah Supahan: Clarification: if a district has an IS waiver, and kids are quarantined and are at home, can you get a J13A even if it's not a staffing shortage? They can't because it has to be a staffing shortage.

- Answer: Wendi will take a second look to understand and confirm statute, and intent.

Sarah continued: Did you say there will be something on certification on the CDE website?

- Answer: certification for the IS plan will also include the certification for instructional time for LEAs that close due to COVID that just need instructional time.

Even if you close for fire?

- Answer: yes

Judy Flores: When a whole class or a whole grade level needs to be quarantined [in August, before the existence of the new law], and we've had examples before this language was released, what is required to go back and do? Could there be an October 1st date for how far to go back for auditing purposes?

- Answer: AB 167 only provided more flexibility. What are you trying to do to come into compliance? What is it that they're trying to come into compliance with?

Judy continued: 3rd week of August vs. now. 90 students in kindergarten were sent home to quarantine in the 2nd week of school. What do they need to go back and do and show for this? How much flexibility will there be with auditing guidance still to come, for setting a start date of how far back to go?

-Answer: Provide synchronous instruction past Day 14, so not likely for any further flexibility to extend the dates of when that should be in place. In terms of audit, DOF and CDE, and others will determine what that will look like.

- Something to base ADA on. One point of clarification: if the laws of attendance occurred before September 1, that can still be recovered.

For future questions for LEAS that need to reach out to CDE for TA related to staffing issues. Jessica will be providing a name and contact information to Derick, once she confirms it.

Derick: Issues with court schools

- Answer: Nothing in statute overrides a court order. Counties do not need to offer IS to students in a court school setting.

## **General Membership Updates/Reminders**

LK provided an update on the October General Membership Meeting:

- A reminder that the schedule has changed and folks do not need to travel in on Sunday, as in past years. The meetings start on Monday now.
- An announcement that the Secretary of Education, Dr. Miguel Cardona has been invited to attend the General Membership, but hasn't accepted or denied. Anyone with direct connection to Dr. Cardona is being asked to reach out to him to encourage his participation if they have an established relationship.
- While discussing meeting protocols for the upcoming in-person General Membership meeting this morning, the Board felt it would be best to reach out to see out how the membership felt. The safety of our attendees is of the utmost importance, and in order to help us best understand the comfort level of those traveling to attend the General Membership meeting in-person in October, we ask that you please take this brief survey. Please note that the city/county of San Francisco has its own established health guidelines that, at a minimum, we will be required to follow. LK let everyone know that, based on the recent information about San Francisco city/county health guidelines, CCSESA would be conducting a quick poll to determine what members plan to do in regards to the meeting.

\*\*\*If you missed the 3:30 meeting but would still like to submit your input, please use this [LINK](#) to register your response on the survey.

## **CDPH Update - Testing Availability**

Kindra provided a response from Dr. Sud from the Safe Schools for All team, after several members had asked about the potential of a testing shortage and/or backlog. Dr. Sud provided this answer to the concern:

There is a nationwide shortage of BinaxNow antigen due to an increased testing demand and decrease production by Abbott. However, California is receiving a limited supply of antigen kits from Abbott every week. Since keeping schools open is a priority of California, CDPH has prioritized these antigen kits for schools. Thus far, we have adequate supply for all schools who have expressed interest in, or are enrolled, in the CDPH antigen program. CDPH is cautiously optimistic that the program will be able to continue to provide schools with sufficient kits for testing.

There are no known supply issues with PCR kits. Kits are shipped out within 3-5 days of onboarding, without a current backlog.

For more information, schools should contact [TTFSchoolInquiry@cdph.ca.gov](mailto:TTFSchoolInquiry@cdph.ca.gov).