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18  
19 *Attorneys for Plaintiffs*

20  
21 **UNITED STATES DISTRICT COURT FOR**  
22 **THE CENTRAL DISTRICT OF CALIFORNIA**

23 **MATTHEW BRACH**, an individual;  
24 **JESSE PETRILLA**, an individual;  
25 **LACEE BEAULIEU**, an individual;  
26 **ERICA SEPHTON**, an individual;  
27 **KENNETH FLEMING**, an individual;  
28 **JOHN ZIEGLER**, an individual;  
**ALISON WALSH**, an individual;

Case No.: 2:20-cv-06472 DDP (AFMx)

**FIRST AMENDED COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Judge: Hon. Dean D. Pregerson

1 **ROGER HACKETT**, an individual;  
2 **CHRISTINE RUIZ**, an individual;  
3 **Z.R.**, a minor; **MARIANNA BEMA**, an  
4 individual; **ASHLEY RAMIREZ**, an  
5 individual; **TIFFANY MITROWKE**,  
6 an individual; **ADE ONIBOKUN**, an  
7 individual; and **BRIAN HAWKINS**, an  
8 individual;

9 Plaintiffs,

10 v.

11 **GAVIN NEWSOM**, in his official  
12 capacity as the Governor of California;  
13 **XAVIER BECERRA**, in his official  
14 capacity as the Attorney General of  
15 California; **SONIA Y. ANGELL**, in  
16 her official capacity as the State Public  
17 Health Officer and Department of  
18 Public Health Director; and **TONY**  
19 **THURMOND**, in his official capacity  
20 as State Superintendent of Public  
21 Instruction and Director of Education

22 Defendants.

*Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is the principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. – Chief Justice Earl Warren, Brown v. Board of Education, 347 U.S. 483, 491 (1954).*

Plaintiffs Matthew Brach, Jesse Petrilla, Lacee Beaulieu, Erica Sephton, Kenneth Fleming, John Ziegler, Alison Walsh, Roger Hackett, Christine Ruiz, her minor child, referred to by his initials, Z.R., Marianna Bema, Ashley Ramirez, Tiffany Mitrowke, Ade Onibokun, and Brian Hawkins, by their attorneys, Dhillon Law Group, Inc., for their claims against Defendants Gavin Newsom, in his official capacity as the Governor of California; Xavier Becerra, in his official capacity as the Attorney General of California; Sonia Y. Angell, in her official capacity as the State Public Health Officer and Department of Public Health Director; Tony Thurmond, in his official capacity as State Superintendent of Public Instruction and Director of Education, allege and show the Court as follows (this “Complaint”).

## NATURE OF ACTION

1. Defendants have ushered in a new wave of COVID-19 restrictions, this time barring in-person schooling for most of California’s children. In Defendants’ rush to enact these new restrictions, they have placed special interests ahead of the wellbeing

1 of the children, and children's fundamental right to receive a basic minimum education.  
 2 Defendants' arbitrary bar on in-person schooling effectively deprives Plaintiffs'  
 3 children, and millions of other children across California, of the opportunity for a  
 4 decent education and the attendant hope for a brighter future. The state's exclusion from  
 5 in-person schooling also contradicts the recommendations of experts from across the  
 6 political spectrum and across numerous disciplines, who argue that schools must re-  
 7 open for in-person instruction this year to avoid further harm to California's children.

8       2. This Action presents facial challenges to the Governor of California's May  
 9 4, 2020 Executive Order N-60-20 ("State Order"), attached here as **Exhibit 1**, which  
 10 requires Californians to obey all State Public Health directives and orders, including the  
 11 State's July 17, 2020 "COVID-19 Industry Guidance: School and School-Based  
 12 Programs," attached here as **Exhibit 2**.

13       3. This Action is brought pursuant to 42 U.S.C. § 1983, on the grounds that  
 14 the State Order and associated guidance and directives, and Defendants' enforcement  
 15 thereof, violate Plaintiffs' constitutionally and federally protected rights, including  
 16 specifically: (1) the right to substantive due process (U.S. Const. amend. XIV); (2) the  
 17 right to equal protection, free from arbitrary treatment by the State (U.S. Const. amend.  
 18 XIV); (3) the right to be free from federally funded state action resulting in a disparate  
 19 impact on racial minorities (Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d,  
 20 *et seq.*); and (4) the right to equal and meaningful access to education, free from  
 21 arbitrary state action resulting in a disparate impact on those with disabilities  
 22 (Individuals with Disabilities Education Act, 20 U.S.C. § 1400, *et seq.*; Title II of the  
 23 Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, *et seq.*; and Section 504 of  
 24 the Rehabilitation Act of 1973, 29 U.S.C. § 794, *et seq.*)).

25       4. With the school year commencing in a little over two weeks from the date  
 26 of this filing, time is of the essence, and the Court should not hesitate to ensure that  
 27 Plaintiffs' fundamental rights in securing a basic minimum education for their children  
 28 are preserved and protected from Defendants' arbitrary actions.

## JURISDICTION AND VENUE

5. This action arises under 42 U.S.C. § 1983 in relation to Defendants' deprivation of Plaintiffs' rights as secured by the U.S. Constitution and federal law. Accordingly, this Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and 1343. This Court has authority to award the requested declaratory relief under 28 U.S.C. § 2201; the requested injunctive relief and damages under 28 U.S.C. § 1343(a); and attorneys' fees and costs under 42 U.S.C. § 1988.

6. The Central District of California is the appropriate venue for this action pursuant to 28 U.S.C. §§ 1391(b)(1) and (2) because it is the District in which Defendants maintain offices, exercise their authority in their official capacities, and will enforce the State Order; and it is the District in which substantially all of the events giving rise to the claims occurred.

## PARTIES

7. Plaintiff Matthew Brach is a resident of Rancho Palos Verdes, California. He is suing in his individual capacity and not as an elected member of the Board of Education for the Palos Verdes Peninsula Unified School District. He is the father of two children. His sixteen-year-old son and thirteen-year-old daughter are students in the Palos Verdes Peninsula Unified School District. His son is entering his senior year and will suffer academically as a result of the denial of personal interaction with teachers and positive academic role models. His son's learning style requires him to be able to ask questions of and interact with his teachers and to learn collaboratively with peers. His daughter is already suffering emotionally from being isolated from her learning community.

8. Plaintiff Jesse Petrilla is a resident of Mission Viejo, California. He has a son who is about to enter first grade. Last school year, when his son was in kindergarten and transitioned from in-classroom to distance learning, Petrilla noticed a significant decline in his son's discipline and engagement. His son's enthusiasm for learning declined, and his son became restless. Petrilla's wife has been forced to take time off

1 from work in order to oversee her son's education. The Petrillas are concerned about  
2 the negative effects that this prolonged absence from the social aspects of structured  
3 education will have on the future development of their son.

4 9. Plaintiff Lacey Beaulieu is a resident of La Jolla, California. She has two  
5 children, a daughter who is entering the ninth grade at a private school and a son who is  
6 about to enter fifth grade in the San Diego Unified School District. One of her family's  
7 biggest challenges with distance learning was trying to balance screen time. Her son's  
8 doctor has recommended that he not spend more than two hours a day in front of  
9 computer screens. With distance learning, this instruction has been almost impossible to  
10 honor. She is concerned that if her son is going to keep up academically, this could  
11 come at a cost of brain development issues as a result of him spending too much time in  
12 front of computer screens. She found it unrealistic to expect her son to follow the  
13 daily/weekly schedule on his own. If she was tied up with work, her son was unable to  
14 proceed with his daily lesson plans. While her daughter had more interaction with her  
15 teachers, because of the lack of labs, she was unable to properly perform science  
16 experiments. Beaulieu believes that the increased screen time has had a negative effect  
17 on both of her children. She has noticed that they have difficulty with sleep schedules,  
18 both are depressed, and their discipline in completing school assignments has  
19 decreased. The enforced deprivation of personal contact with their peers has also  
20 affected these children negatively.

21 10. Plaintiff Erica Sephton is a resident of Murrieta, California. She has a  
22 daughter who is about to enter transitional kindergarten at Saint Jeanne de Lestonnac  
23 Catholic school in Temecula. Sephton understands that her daughter needs social  
24 interaction with her fellow classmates, something that she cannot get at home doing  
25 distance learning. Sephton is aware of the risks of COVID-19 and believes that these  
26 minor risks for children do not outweigh the harm that her daughter is suffering by  
27 being deprived of her in-person education. While the school, the teachers and the  
28 students are ready to resume school instruction in the classroom with proper

1 precautions, Sephton believes that they are being held back because of positive test  
2 results in other parts of the county and not because of any substantial risk in her  
3 community. She does not understand why her daughter is allowed to spend all day in a  
4 childcare facility, but cannot spend the same period of time in a private school,  
5 learning.

6 11. Plaintiff Kenneth Fleming is the father of a public high school senior in  
7 Long Beach, California. His daughter has maintained straight A's on her report card for  
8 the last three years. She is a student athlete with ambition to earn a sports scholarship to  
9 attend her dream school. Plaintiff Fleming is concerned that online-only education,  
10 which has not been awarding letter grades to students, adversely impacts his daughter's  
11 opportunity to compete for a college scholarship. He also believes that online-only  
12 education does not assist his daughter either athletically or academically in preparing  
13 for college.

14 12. Plaintiff John Ziegler is a resident of Camarillo, California and is the father  
15 of an eight-year-old girl enrolled in public school. When her school moved from in-  
16 person instruction to an online platform during the Spring 2020 semester, her  
17 educational development suffered. She fell behind in her academic progress. As a result  
18 of the denial of in-person educational instruction, Plaintiff Ziegler's wife is left with no  
19 choice but to forgo her employment to stay home with their daughter.

20 13. Plaintiff Alison Walsh is the mother of two children who were in the  
21 Capistrano Unified School District during the 2019-2020 school year. When CUSD  
22 moved to an online platform in the 2020 spring semester, her children's education  
23 suffered. Her children's school did not offer her children any live instruction. Their  
24 teachers merely sent work packets to the students to complete independently. In  
25 preparation for the 2020-2021 academic year, Plaintiff Walsh enrolled her children in  
26 private school to ensure that her children could receive academic instruction. Now with  
27 Defendants' guidance, even the private school is prohibited from providing in-person  
28 education.

1           14.       Plaintiff Roger Hackett lives in Ventura County and has a son who will  
2 attend a private middle school in Westlake Village, California. His son's school has  
3 made significant preparations for safe in-person instruction pursuant to the CDC and  
4 local guidelines. This school is willing to offer both in-person and distance learning  
5 options based on the preference of the parents, and is ready to safely reopen in-school  
6 classes and non-contact athletics starting August 12. Plaintiff Hackett's concern is that  
7 online-only education will adversely impact his son's academic and social  
8 development. His son is frustrated by continual isolation from his academic community  
9 and absence from school athletics. Even though Westlake Village has very few  
10 COVID-19 positive cases, because it is in Los Angeles County, which is on the state's  
11 watch list, this private school is being prevented from operating in compliance with  
12 COVID safety guidelines and in accordance with the desires of the school, teachers,  
13 parents, and students.

14           15.       Plaintiff Christine Ruiz is Hispanic and lives in Los Angeles County. She  
15 has two sons who attend public school in the county, one of whom is Plaintiff Z. R.,  
16 referred to by his initials herein. Both boys have been diagnosed with autism. Her 15-  
17 year-old son, Z. R., attends high school, in moderate to severe special education classes.  
18 Under normal circumstances, he has an entire team of special needs-educated,  
19 credentialed staff working hands-on with him during the entire school day pursuant to  
20 an Individual Education Program ("IEP") mandated by law. As of March 16, 2020, he  
21 has received none of the services required by his IEP. While the school offered a Zoom  
22 meeting, this did not work. Her younger son is in junior high school. He has been  
23 placed in mild to moderate special education classes. The online class only lasted about  
24 30 minutes a day, and he did not learn anything by clicking a few links and watching a  
25 video. Her son is a hands-on learner. As a result of the school transitioning to online-  
26 only education and not providing the required IEP services, Ruiz has had to hire an  
27 educational tutor to assist her sons.

1           16.       Plaintiff Z. R. is a minor and, as such, is referred to by his initials herein.  
 2 Z. R. is the 15-year-old son of Christine Ruiz who currently attends high school. Z. R.  
 3 is Hispanic and takes moderate to severe special education classes as a result of his  
 4 autism.

5           17.       Plaintiff Marianne Bema is a resident of Los Angeles County, California.  
 6 She is originally from Cameroon, Africa and is a single mother of three school aged-  
 7 sons. It is hard for her boys to pay attention and learn solely online. Even though she  
 8 speaks several languages, there is a small language barrier and it is best for her children  
 9 to be taught by a trained, English-speaking teacher. Plaintiff Bema also has spotty  
 10 internet connection at her home, and has noted that the online classes are not secure,  
 11 and were sometimes hacked into by third-parties.

12           18.       Plaintiff Ashley Ramirez has three children who attend their local public  
 13 school. Ramirez and one of her sons have both tested positive for COVID-19 and  
 14 successfully recovered. Her children participate in the free or reduced lunch program at  
 15 school, which greatly helps their family's financial situation. Plaintiff Ramirez tries to  
 16 limit screen time for her sons, and notes that the schools' distance learning scheme  
 17 seems to be promoting unhealthy amounts of screen time. Her oldest son has an IEP and  
 18 he basically "shut down" and cannot effectively participate in an online-only education.  
 19 Plaintiff Ramirez wonders why the schools are not allowed to reopen, when day care  
 20 and camps are open for children.

21           19.       Plaintiff Tiffany Mitrowke is a resident of San Diego, California. She is  
 22 the single mother of a seven-year-old boy who attends public school. Her son has been  
 23 negatively affected educationally and emotionally by the school closures. She hears her  
 24 son crying in the shower because he cannot go to school and feels isolated. When her  
 25 son's school went online, the teachers provided no meaningful instruction and merely  
 26 sent homework packets to the students; additionally, no one from the school even called  
 27 to check to see how her son was fairing. She has also reached out to the school with  
 28 questions concerning the next school year but the school has been unresponsive.

1 Plaintiff Mitrowke has researched hiring a private tutor to teach her child if the schools  
2 do not reopen but it is cost-prohibitive for her family.

3 20. Plaintiff Adebukola Onibokum is a resident of Santa Clara County,  
4 California. He is a neurosurgeon by profession with two young children. His children  
5 attend private, parochial school and the school has applied for a waiver from the  
6 Governor's order so that the school can provide in-person learning. Plaintiff Onibokum  
7 believes that the quality and depth of online learning is of lesser degree and not  
8 comparable to an in-person education, and he supports opening California schools.  
9 Plaintiff Onibokum's children attended camp this summer and returned much happier  
10 as a result of the vital human interaction that has been absent for children during the  
11 shutdown.

12 21. Plaintiff Brian Hawkins is resident of San Jacinto, Riverside County,  
13 California. He is an African-American full-time pastor. He has two children, including  
14 a son who has an Individualized Education Program (hereinafter "IEP"). His son has  
15 ADHD and cannot learn via an online format. His son has also been deprived of his  
16 special aide who normally helps him (in-person) throughout the entire school day. His  
17 daughter, usually a talkative and very social young girl, reports that she is "angry" at  
18 missed learning opportunities such as "learning to write cursive." As a pastor, Plaintiff  
19 Hawkins has counseled many individuals who have been depressed and suicidal as a  
20 result of COVID-19.

21 22. Defendant Gavin Newsom ("Newsom") is made a party to this Action in  
22 his official capacity as the Governor of California. The California Constitution vests the  
23 "supreme executive power of the State" in the Governor, who "shall see that the law is  
24 faithfully executed." Cal. Const. Art. V, § 1. Governor Newsom signed Executive Order  
25 N-60-20 (the "Executive Order") on May 4, 2020. *See, e.g., Ex Parte Young*, 209 U.S.  
26 123 (1908).

27 ///

28 ///

23. Defendant Xavier Becerra (“Becerra”) is made a party to this Action in his official capacity as the Attorney General of California. Under California law, Becerra is the chief law enforcement officer in the State. Cal. Const. Art. V, § 13.

24. Defendant Sonia Y. Angell, MD, MPH (“Dr. Angell”) is made a party to this Action in her official capacity as the Director and State Public Health Officer. Dr. Angell is sued herein in her official capacity to the extent that she is responsible for providing official government guidance to the various industries that are allowed to operate.

25. Defendant Tony Thurmond (“Thurmond”) is made a party to this Action in his official capacity as State Superintendent of Public Instruction and Director of Education. Thurmond is responsible for enforcing education law and regulations in California.

### FACTUAL ALLEGATIONS

26. On or about March 4, 2020, California Governor Gavin Newsom proclaimed a State of Emergency as a result of the threat of COVID-19.<sup>1</sup>

27. On or about March 19, 2020, California Governor Newsom issued Executive Order N-33-20 in which he ordered “all residents are directed to immediately heed the current State public health directives.”<sup>2</sup>

28. On or about May 4, 2020, California Governor Newsom issued Executive Order N-60-20 in which he ordered “All residents are directed to continue to obey State public health directives, as made available at <https://covid19.ca.gov/stay-home-except-for-essential-needs/> and elsewhere as the State Public Health Officer may provide.” Ex. 1.

<sup>1</sup> Available as of the date of this filing: <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>.

<sup>2</sup> Available as of the date of filing: <https://www.gov.ca.gov/wp-content/uploads/2020/03/EO-N-33-20-COVID-19-HEALTH-ORDER-03.19.2020-002.pdf>.

29. On July 17, 2020 Newsom announced a framework to reopening schools.<sup>3</sup>

30. Under his plan, schools and school districts are allowed to reopen for in-person instruction *only* “if they are located in a local health jurisdiction (LHJ) that has not been on the county monitoring list within the prior 14 days.”<sup>4</sup>

31. California is the only state in the U.S. that is mandating at the state level that school districts not hold in-person classes, rather than leaving that decision to the individual school districts.<sup>5</sup>

32. California Department of Public Health (CDPH) has provided guidance to similarly situated industries, namely camps<sup>6</sup> and childcare facilities,<sup>7</sup> allowing them to remain open, but schools are subject to more stringent standards that defy reason.<sup>8</sup>

33. In fact, at the same time that classrooms are being closed for students, these same classrooms are being used to provide child care.<sup>9</sup>

34. Currently, there are 37 counties on the watch list.<sup>10</sup> A county is put on the watch list if for any one of five benchmarks for three consecutive days. These five

<sup>3</sup> Available as of the date of filing:

<https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Schools%20Reopening%20Recommendations.pdf>.

<sup>4</sup> Available as of the date of filing:

<https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Schools%20Reopening%20Recommendations.pdf>.

<sup>5</sup> Available as of the date of filing: <https://thehill.com/homenews/state-watch/508105-heres-your-states-plan-for-reopening-schools>.

<sup>6</sup> Available as of the date of filing: <https://files.covid19.ca.gov/pdf/guidance-daycamps.pdf>.

<sup>7</sup> Available as of the date of filing: <https://files.covid19.ca.gov/pdf/guidance-childcare--en.pdf>.

<sup>8</sup> Available as of the date of filing: <https://files.covid19.ca.gov/pdf/guidance-schools.pdf>.

<sup>9</sup> Available as of the date of filing:

<https://apnews.com/53c43bebfcb6c89aadd2511b8ff8c9f9>.

<sup>10</sup> As of July 28, 2020, the following counties are on the watchlist: Alameda, Butte, Colusa, Contra Costa, Fresno, Glenn, Imperial, Kern, Kings, Los Angeles, Madera, Marin, Merced, Mono, Monterey, Napa, Orange, Placer, Riverside, Sacramento, San

benchmarks include: 1) 100 cases per 100,000 people over a two-week period; 2) more than 25 cases per 100,000 people with positive test rates of more than 8%; 3) an increase in the number of patients hospitalized of more than 10% over a three-day average; 4) ICU bed availability below 20%; and 5) ventilator availability below 25%. To get off the watch list, a county must not trigger any of the five thresholds for three consecutive days.<sup>11</sup> However, in order for schools to open, the county must remain off the watch list for 14 days.

35. There are currently 5.9 million students K-12 in California.<sup>12</sup>

36. As of July 14, 2020, there are 8,433 Child Care centers opened in the state of California and a total of 24,915 licensed Family Child Care Homes for a total of 33,348 total facilities.<sup>13</sup>

**Table 1: Total Number of Open Child Care Centers and Family Child Care Homes Statewide and by County (Data Retrieved: 7/14/2020)**

County	Total Number of Open Facilities	Total Number of Open Facilities	Total Number of Open Facilities
	Child Care Centers	Family Child Care Homes	All
Statewide	8,433	24,915	33,348

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Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tulare, Ventura, Yolo, and Yuba. Available as of the date of filing:

<https://covid19.ca.gov/roadmap-counties/#track-data>.

<sup>11</sup> Available as of the date of filing:

<https://www.sfchronicle.com/bayarea/article/California-s-watch-list-What-it-monitors-and-15430008.php>.

<sup>12</sup> Available as of the date of filing: <https://lao.ca.gov/Education/EdBudget/Details/331>.

<sup>13</sup> Available as of the date of filing: <https://cdss.ca.gov/Portals/9/Additional-Resources/Research-and-Data/DSSDS/ChildCare-7-19.pdf>.

**The U.S. Department of Education and Centers for Disease Control  
Are Encouraging Schools to Open**

37. The United States Department of Education spent approximately \$8.3 billion on California K-12 schools for the 2019-2020 school year.<sup>14</sup>

38. During a July 8 briefing conducted by the Vice President and the coronavirus task force, the United States Secretary of Education, Betsy DeVos, stated that “[t]here were a number of schools and districts across the country that did an awesome job of transitioning this spring. And there were a lot in which I and state school leaders were disappointed in that they didn’t figure out how to continue to serve their students. Too many of them just gave up. The Center for Reinventing Public Education [CRPE] said that only 10 percent across the board provided any kind of real curriculum and instruction program.”<sup>15</sup>

39. Devos also quoted The American Academy of Pediatrics, “Keeping schools closed ‘places children and adolescents at considerable risk of morbidity and, in some cases, mortality.’” The Pediatrics’ guidance concluded that everyone “should start with a goal of having students physically present in school.” “Fully open” and “fully operational” means that students need a full school year or more, and it’s expected it will look different depending on where you are.”<sup>16</sup> “Ultimately, it’s not a matter of ‘if’ schools should reopen, it’s simply a matter of ‘how.’ They must fully open, and they must be fully operational.”<sup>17</sup>

<sup>14</sup> Available as of the date of filing: <https://lao.ca.gov/Education/EdBudget/Details/331>.

<sup>15</sup> Available as of the date of filing: <https://www.whitehouse.gov/briefings-statements/press-briefing-vice-president-pence-members-coronavirus-task-force-july-8-2020/>.

<sup>16</sup> *Id.*; full report available as of the date of filing: <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/>.

<sup>17</sup> *Id.*

40. CRPE found many disparities among schools.<sup>18</sup> In a new report involving a national representative sample of 477 school systems, statistical weights were applied to provide a national representative sample of U.S. school districts. CRPE compared distance learning in districts with different types of communities and different student populations. CRPE found a “sobering story... just one in three districts expect teachers to provide instruction, track student engagement, or monitor academic progress for all students... Far too many districts are leaving learning to chance during the coronavirus closures.”<sup>19</sup>

41. As CRPE noted, “[e]xperience tells us that low expectations for instruction bode poorly for the students who faced the greatest challenges: those in low-income households, those with disabilities, those who speak a language other than English at home.”<sup>20</sup>

42. Although “[t]racking student progress by collecting work for review, assessing students’ progress toward academic benchmarks, or grading their work is the best way to gauge if students are continuing to learn in their remote settings”—and may also be the “only way to get a sense of gaps in students’ learning that may emerge before the fall”—CRPE “found worrisome trends in the expectations districts set. Just 42 percent expect[ed] teachers to collect student work, grade it, and include it in final course grades for at least some students (typically those in middle and upper grades).”<sup>21</sup>

43. The CRPE found a “stark” rural-urban divide “in expectations”—“far more so than the gap in instruction between districts with high concentrations of students who qualify for free or reduced-price lunch.”<sup>22</sup>

<sup>18</sup> Available as of the day of filing: <https://www.crpe.org/thelens/too-many-schools-leave-learning-chance-during-pandemic>.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

1        44.        “More affluent school districts [were] more likely to require live video  
 2 instruction from teachers. While expectations around synchronous, or real-time,  
 3 teaching are uncommon across the board (expected in 21.8 percent of districts), only  
 4 14.5 percent of school districts with the highest concentration of students receiving free  
 5 or reduced-price lunch expect[ed] teachers to provide live instruction. The most affluent  
 6 25 percent of districts” in the CRPE sample were “twice as likely to expect real-time  
 7 teaching.”<sup>23</sup> In short, school districts with concentrations of students from low-income  
 8 families woefully failed to provide meaningful instruction once schools closed in the  
 9 spring.

10        45.        School closings also disproportionately affects minorities, as the NAACP  
 11 notes:<sup>24</sup> “For students of color at all levels across the country, school closings create  
 12 problems even more urgent than the interruption of their educations. Schools also serve  
 13 as a community nexus for food and housing. Many Black students are eligible for the  
 14 federal Free or Reduced-Price Lunch Program (FRPL). Fall 2016 data from the  
 15 National Center on Education Statistics show that for high-poverty schools where more  
 16 than 75% of students are eligible for FRPL, Black students accounted for 44% of those  
 17 attending. At schools where 50-75% percent of students are eligible for FRLP, Black  
 18 students made up 30% of the student population. For students who rely on their schools  
 19 as a reliable source of daily meals, school closings leave a critical gap.”<sup>25</sup>

20        46.        The CDC explained that “[s]chools play a critical role in supporting the  
 21 whole child, not just their academic achievement,” including the “development of social  
 22 and emotional skills,” and that a safe, connected environment such as school reduces  
 23 students’ depression, anxiety, and thoughts of suicide.<sup>26</sup>

24 \_\_\_\_\_  
 25 <sup>23</sup> *Id.*

26 <sup>24</sup> Available as of the day of filing: <https://naacp.org/coronavirus/coronavirus-impact-on-students-and-education-systems/>.

27 <sup>25</sup> *Id.*

28 <sup>26</sup> *The Importance of Reopening America’s Schools this Fall*, Centers for Disease Control and Prevention (July 23, 2020), available at

1        47.        The CDC also noted that “more than 30 million children participate in the  
2 National School Lunch Program and nearly 15 million participate in the School  
3 Breakfast Program.”<sup>27</sup>

4                    **American Academy of Pediatrics Recommends Students**  
5                    **Physically Present in Schools**

6        48.        In late June, the American Academy of Pediatrics (“AAP”) “strongly”  
7 recommended that “the coming school year should start with a goal of having students  
8 physically present in school.”<sup>28</sup>

9        49.        The AAP noted the health benefits that would otherwise be lost, such as  
10 “child . . . development,” “social and emotional skills,” “reliable nutrition,”  
11 physical/speech and mental health therapy,” and “opportunities for physical activity.”<sup>29</sup>

12        50.        The AAP also noted that the lack of “in-person learning” could  
13 disproportionately affect minorities and those of less socioeconomic means.<sup>30</sup>

14        51.        The AAP also explained that “[l]ong time away from school and  
15 associated interruption of supportive services often results in isolation, making it  
16 difficult for schools to identify and address important learning deficits as well as child  
17 and adolescent physical or sexual abuse, substance use, depression, and suicidal  
18 ideation.”<sup>31</sup>

19  
20 ///

21 \_\_\_\_\_  
22 [https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/reopening-](https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/reopening-schools.html)  
23 [schools.html](https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/reopening-schools.html).

24 <sup>27</sup> *Id.*

25 <sup>28</sup> American Academy of Pediatrics, *COVID-19 Planning Considerations: Guidance for*  
26 *School Reentry*, 3d para. (Last Updated June 25, 2020),  
[https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-](https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/)  
27 [guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/](https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/).

28 <sup>29</sup> *Id.* at 1st para.

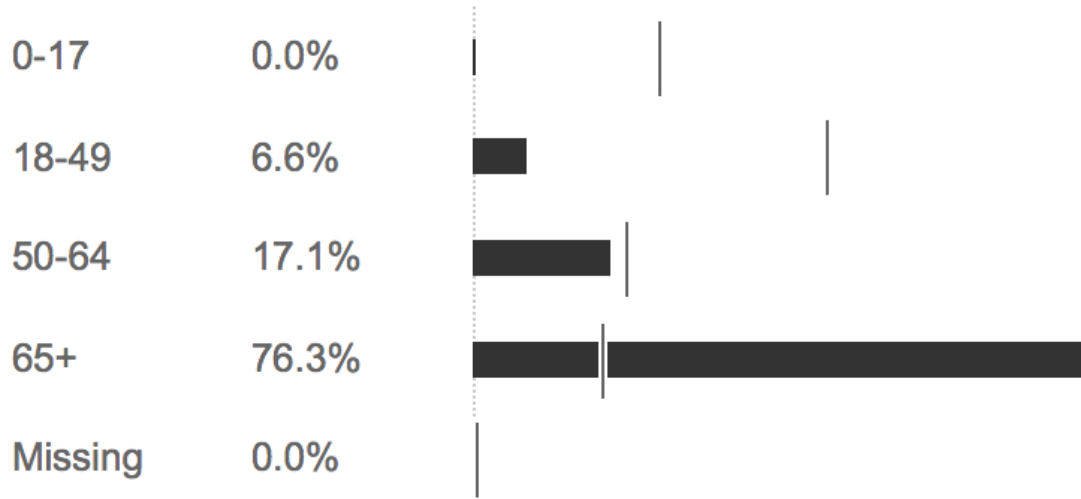
<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

### Studies Show that Open Schools Present Minimal Risk

52. According to California's own published reports, *not a single minor* in the state of California has died as a result of COVID-19.<sup>32</sup> "No child under age 18 in the state of California has died due to infection from the coronavirus since tracking began on February 1, 2020...[u]nlike the seasonal flu, which kills approximately 200 children per year nationally."<sup>33</sup> This is consistent with national statistics, which indicate that children under 18 account for 0% of nationwide-deaths from COVID-19.

#### Total Deaths by Age

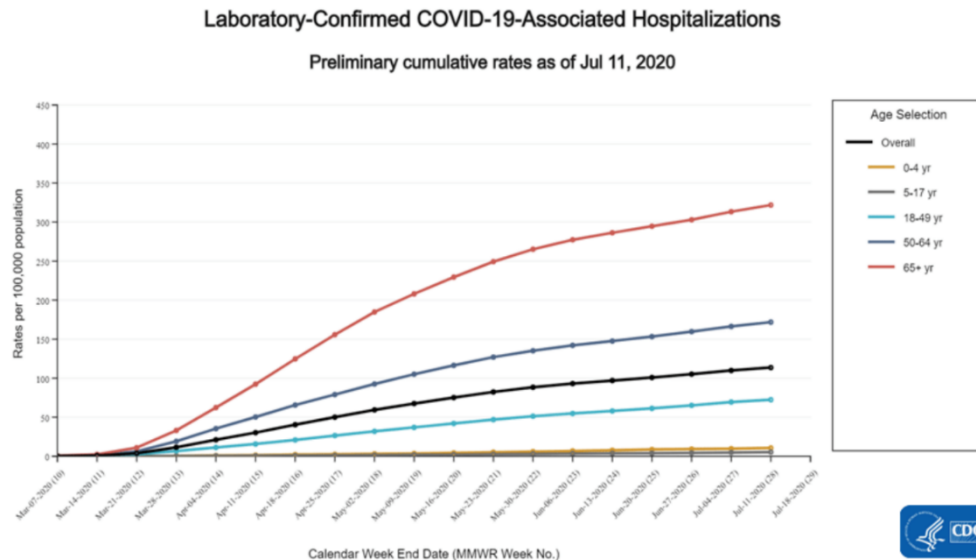


53. The CDC reports that children between the ages of 5–17 are hospitalized at a rate of 5.3 per 100,000 compared to a national average of 113.6.<sup>34</sup>

<sup>32</sup> Available as of the date of filing: <https://update.covid19.ca.gov>.

<sup>33</sup> McDonald Decl. in support of Motion for Preliminary Injunction at ¶ 5.

<sup>34</sup> Available as of the date of filing: <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html#hospitalizations>



54. On March 30, 2020, the Australian Research Council released a study that looked at the early data from China, Singapore, South Korea, Japan, and Iran. The study concluded that while “SARS-CoV-2 can cause mild disease in children, the data available to date suggests that children have not played a substantive role in the intra-household transmission of SARS-CoV-2.”<sup>35</sup>

55. On April 3, 2020, the Ministry of Health for British Columbia found that “COVID-19 virus has a very low infection rate in children estimated at 1-5% worldwide.”<sup>36</sup>

56. On April 26, 2020, another Australian study found *no* evidence of children infecting teachers.<sup>37</sup> The study concluded that the “spread of COVID-19 within NSW (New South Wales) schools has been very limited.”<sup>38</sup> This study also found that unlike

<sup>35</sup> Available as of the date of filing:

<https://www.medrxiv.org/content/10.1101/2020.03.26.20044826v1>.

<sup>36</sup> Available as of the date of filing: <http://www.bccdc.ca/Health-Professionals-Site/Documents/Caring-for-children.pdf>.

<sup>37</sup> Available as of the date of filing: [http://ncirs.org.au/sites/default/files/2020-04/NCIRS%20NSW%20Schools%20COVID\\_Summary\\_FINAL%20public\\_26%20April%202020.pdf](http://ncirs.org.au/sites/default/files/2020-04/NCIRS%20NSW%20Schools%20COVID_Summary_FINAL%20public_26%20April%202020.pdf), p. 4.

<sup>38</sup> *Id.*

1 other respiratory viruses, children are not the primary drivers of the spread of COVID-  
2 19.<sup>39</sup>

3 57. On May 18, 2020, during a video conference of ministers of education  
4 with the Council of the European Union, it was reported that since the reopening of  
5 schools in 22 member states, there had been *no increase* in infections of COVID-19  
6 among students, teachers and parents.<sup>40</sup>

7 58. On May 28, 2020, a study was released showing that there was no  
8 evidence of secondary transmission of COVID-19 from children attending school in  
9 Ireland.<sup>41</sup>

10 59. On June 23, 2020, the Institute Pasteur after studying 1,340 people linked  
11 to primary schools in France released a study in which they found that infected children  
12 did not spread the virus to other children or to teachers or other school staff.<sup>42</sup>

13 60. On July 7, 2020, the Public Health Agency of Sweden published a study  
14 titled “Covid-19 in schoolchildren”.<sup>43</sup> This study found:

- 15 a. Closing of schools had no measurable effect on the number of cases of
- 16 COVID-19 among children;
- 17 b. Children are not a major risk group of the COVID-19 disease and seem to
- 18 play a less important role from the transmission point of view, although
- 19 more active surveillance and special studies such as school and household
- 20 transmission studies are warranted; and

21  
22 <sup>39</sup> *Id.*

23 <sup>40</sup> Available as of the date of filing: <https://www.washingtonexaminer.com/news/22-eu-member-states-have-not-seen-a-spike-in-coronavirus-cases-in-schools-after-reopening>.

24 <sup>41</sup> Available as of the date of filing:  
25 [https://www.eurosurveillance.org/content/10.2807/1560-7917.ES.2020.25.21.2000903#html\\_fulltext](https://www.eurosurveillance.org/content/10.2807/1560-7917.ES.2020.25.21.2000903#html_fulltext).

26 <sup>42</sup> Available as of the date of filing: <https://www.pasteur.fr/fr/file/35404/download>.

27 <sup>43</sup> Available as of the date of filing:  
28 <https://www.folkhalsomyndigheten.se/contentassets/c1b78bffbde4a7899eb0d8ffdb57b09/covid-19-school-aged-children.pdf>.

c. The negative effects of closing schools must be weighed against the possible positive indirect effects it might have on the mitigation of the COVID-19 pandemic.

61. On July 8, 2020, Prevent Epidemics published a report by the former Head of the Centers for Disease Control and Prevention. In this report titled “Reopening America’s Schools: A Public Health Approach” they found that the evidence “suggests that children may play a smaller role in transmission of COVID-19 than adults.”<sup>44</sup>

62. On July 15, 2020, a study of 2,000 German school children was released that concluded that schools and young people do not play a significant role in the transmission of the coronavirus.<sup>45</sup> This study found that schools in Germany did not become hotspots after they were reopened.<sup>46</sup>

63. On July 15, 2020, the National Academies of Sciences, Engineering, and Medicine prepared a report in which they weighed the health risks of reopening K-12 schools against the educational risks of providing no in-person instruction and they came to the conclusion that:

Districts should weigh the relative health risks of reopening against the educational risks of providing no in-person instruction in Fall 2020. Given the importance of in-person interaction for learning and development, districts should prioritize reopening with an emphasis on providing full-time, in-person instruction in grades K-5 and for students with special needs who would be best served by in-person instruction.<sup>47</sup>

<sup>44</sup> Available as of the date of filing: [https://preventepidemics.org/wp-content/uploads/2020/07/Reopening-Americas-Schools\\_07-08-2020-Final.pdf](https://preventepidemics.org/wp-content/uploads/2020/07/Reopening-Americas-Schools_07-08-2020-Final.pdf), p. 6.

<sup>45</sup> Available as of the date of filing: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7271745/>.

<sup>46</sup> *Id.*

<sup>47</sup> Available on page 75 as of the date of filing: <https://www.nap.edu/read/25858/chapter/1>.

64. On July 21, 2020, a leading epidemiologist reported to the media that there is *no known case* of a teacher catching coronavirus from pupils.<sup>48</sup>

65. On July 23, 2020, the CDC updated its report titled The Importance of Reopening America's Schools this Fall.<sup>49</sup> This report found:

Death rates among school-aged children are much lower than among adults. At the same time, the harms attributed to closed schools on the social, emotional, and behavioral health, economic well-being, and academic achievement of children, in both the short- and long-term, are well-known and significant.

66. The CDC also published a report on the age distribution of transmission to new cases in South Korea, which found that less than 1% of new transmission detected in the study were attributed to children aged 0 to 10 years; similarly, less than 1% of new transmissions were from children aged 11 to 20 years.

67. Presently, there are 22 countries that have their schools open without social distancing, mask wearing, and other measures, yet these countries have not experienced an increase in COVID-19 cases or spread of the virus among children.

68. These countries have also not seen transmission of the virus between children and their parents or elderly grandparents.

69. Quite the contrary, one July 2020 study from the University of Dresden concluded that, in fact, children appeared to act as a barrier to transmission.

#### **Studies Show that the Digital Divide Harms Students**

70. A study from Brown University has explained that "there are many reasons to believe the COVID-19 impacts might be larger for children in poverty and children of color," noting (1) the disproportionately higher rate of COVID-19 infections and

<sup>48</sup> Available as of the date of filing: <https://www.thetimes.co.uk/article/no-known-case-of-teacher-catching-coronavirus-from-pupils-says-scientist-3zk5g2x6z>.

<sup>49</sup> Available as of the date of filing: <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/reopening-schools.html>.

1 deaths and worse effect of the economic downturn on African American and Hispanic  
 2 parents, and (2) the “digital divide in technology and internet access by race/ethnicity  
 3 and socioeconomic status.”<sup>50</sup>

4 71. Studies have shown that “Blacks and Latinos are substantially less likely to  
 5 have a computer at home than are white, non-Latinos,” with some estimates showing  
 6 that “70.4 percent of whites have access to a home computer” while “only 41.3 percent  
 7 of blacks and 38.8 percent of Latinos have access to a home computer.”<sup>51</sup>

8 72. This digital divide is supported by other surveys, one of which reported  
 9 that: (1) 41% of respondents stated that “not having a computer or tablet or enough  
 10 available devices” was a “top barrier” to distance learning, while only 37% said that  
 11 their child’s school had lent mobile technology devices; and (2) 71% of African  
 12 American families and 69% of families with a household income of less than \$50,000  
 13 stated that lending mobile technology devices would be very helpful for families like  
 14 theirs.<sup>52</sup> This survey comports with the “evidence that, even when teachers are making  
 15 themselves and their instructional materials available virtually, many students lack the  
 16 means to access online material from home.”<sup>53</sup>

17 73. The Brown University study estimated those negative impacts on children  
 18 to be a loss of 63-68% of the learning gains in reading relative to a typical school year  
 19 and a loss of 37-50% in learning gains in math.<sup>54</sup>

21 <sup>50</sup> Kuhfeld *et al.* (May 2020) *Projecting the potential impacts of COVID-19 school*  
 22 *closures on academic achievement*, p. 25 Annenberg Institute at Brown University,  
 23 <https://doi.org/10.26300/cdrv-yw05>.

24 <sup>51</sup> Robert W. Fairlie, *Race and the Digital Divide*, UC Santa Cruz: Department of  
 Economics, UCSC, at 2 (2014), available at <https://escholarship.org/uc/item/48h8h99w>.

25 <sup>52</sup> The Education Trust-West, *California Parent Poll: COVID-19 and School Closures*  
 26 (Accessed on June 19, 2020), available at: <https://west.edtrust.org/ca-parent-poll-covid-19-and-school-closures/>.

27 <sup>53</sup> Kuhfeld, *Projecting the potential impacts of COVID-19 school closures on academic*  
*achievement*, p. 10.

28 <sup>54</sup> *Id.* p. 23.

1        74. In some grades, students may come back close to a “full year behind in  
2 math.”<sup>55</sup>

3        75. There is also evidence showing that remote learning leads to decreased  
4 teacher interaction with students.<sup>56</sup>

5        76. Another study showed that that, even for children receiving average-  
6 quality online learning in the fall of 2020, students would lose “three to four months of  
7 learning” by January 2021. And the study predicted that Blacks and Latinos would  
8 suffer a 15 to 20 percent greater loss in educational gains than other students.<sup>57</sup>

9        77. Less than two weeks after the school shutdown on March 16, 2020, the Los  
10 Angeles School District officials admitted that 15,000 students were completely  
11 unaccounted for and more than 40,000 had not been in daily contact with their  
12 teachers.<sup>58</sup>

13        78. A study conducted by the Los Angeles Unified School District (LAUSD)  
14 found that between March 16 and May 22, 2020, “on an average day only about 36% of  
15 middle and high school students participated online,” while “[a]bout 25% logged on or  
16 viewed work only” “[a]nd about 40% were absent.” The study also found that Black  
17 and Latino students showed participation rates between 10 and 20 percentage points  
18 lower than white and Asian peers.” And “English learners, students with disabilities,  
19

20 <sup>55</sup> *Id.*

21 <sup>56</sup> *Id.* at 10 “There are concerning signs that many teachers have had no contact at all  
22 with a significant portion of students . . . only 39% of teachers reported interacting with  
23 their students at least once a day, and most teacher-student communication occurred  
24 over email”, and absenteeism.

25 <sup>57</sup> Emma Dorn, et al., *COVID-19 and student learning in the United States: The hurt  
26 could last a lifetime*, McKinsey & Company (June 1, 2020), available at  
27 [https://www.mckinsey.com/industries/public-sector/our-insights/covid-19-and-student-  
28 learning-in-the-united-states-the-hurt-could-last-a-lifetime](https://www.mckinsey.com/industries/public-sector/our-insights/covid-19-and-student-learning-in-the-united-states-the-hurt-could-last-a-lifetime).

<sup>58</sup> Howard Blume, *15,000 L.A. high school students are AWOL online, 40,000 fail to  
check in daily amid coronavirus closures*, LOS ANGELES TIMES, (March 30, 2020)  
Available at: [https://www.latimes.com/california/story/2020-03-30/coronavirus-los-  
angeles-schools-15000-high-school-students-absent](https://www.latimes.com/california/story/2020-03-30/coronavirus-los-angeles-schools-15000-high-school-students-absent).

1 homeless students and those in the foster-care system had lower rates of online  
2 participation.”<sup>59</sup>

3 79. Even among students from families with lower economic means who are  
4 provided with tablets and wifi hotspots, it has been reported that parents who are  
5 technologically challenged have been unable to help their children get online. Teachers  
6 report students who are unable to respond online because they are babysitting their  
7 siblings, who are also home from school, while parents work to keep the family housed.  
8 Even the most diligent teacher cannot provide the extra attention to a struggling student  
9 that he or she would provide in-person, while using only online resources.

### 10 **Special Education Students are Disadvantaged by Distance Learning**

11 80. Under federal law, students with disabilities are guaranteed a Free,  
12 Appropriate Public Education (FAPE), as incorporated through the IDEA ACT 34  
13 C.F.R. § 300.101 and Title III of the Americans with Disabilities Act of 1990 (“ADA”),  
14 § 504 of the Rehabilitation Act of 1973.<sup>60</sup>

15 81. The federal government allocates approximately \$1.2 billion to California  
16 for special education each year.<sup>61</sup>

17 82. Many parents of special needs children in California have reported that  
18 their children received none, or nearly none, of the individualized instruction  
19 guaranteed by law when schools closed in the spring. Frustrated instructors simply gave  
20 up when faced with technology challenges, while others didn’t even try, and many  
21 school districts made zero provision for delivering these federally mandated services to  
22 children, despite the federal funding the state received that was conditioned upon  
23

24 <sup>59</sup> *Report reveals disparities among Black, Latino LAUSD students in online learning*  
25 *amid COVID-19 pandemic*, ABC 7 Eyewitness News (July 17, 2020), available at  
26 [https://abc7.com/lausd-los-angeles-unified-school-district-race-disparity-racial-](https://abc7.com/lausd-los-angeles-unified-school-district-race-disparity-racial-divide/6321930/)  
27 [divide/6321930/](https://abc7.com/lausd-los-angeles-unified-school-district-race-disparity-racial-divide/6321930/).

28 <sup>60</sup> 20 U.S.C.A. § 1412; *see* 42 U.S.C.A. § 12132; *see* 29 USCA § 794.

<sup>61</sup> Available as of the date of filing:

<https://lao.ca.gov/Publications/Report/4110#Introduction>.

1 providing these services. Accordingly, children with disabilities were especially  
2 harmed by the school closures during the spring.

3 83. Moreover, even if schools were to make better efforts in the fall, many  
4 individualized education programs (IEPs) simply *cannot* be implemented in a distance-  
5 learning environment. For example, many IEPs require individualized instruction, such  
6 as a one-on-one aide. And not following an IEP can have grave consequences, such as  
7 regression.

8 84. While not unique to students with disabilities, socialization in schools is  
9 critical for special needs children.

10 85. The CDC's July 23, 2020, report on the Importance of Reopening  
11 America's Schools this Fall found that

12 The lack of in-person educational options  
13 disproportionately harms low-income and minority  
14 children and those living with disabilities. These  
15 students are far less likely to have access to private  
16 instruction and care and far more likely to rely on key  
17 school-supported resources like food programs, special  
education services, counseling, and after-school  
programs to meet basic developmental needs.<sup>62</sup>

#### 18 **Distance-Only Schools Pose Child Safety Concerns**

19 86. As mandatory reporters, teachers who have daily contact with children are  
20 in the best position to notice and report suspected child abuse.

21 87. Nationwide, "stay at home" does not mean "safe at home" as a report from  
22 RAINN (Rape, Abuse, & Incest National Network) describes. "Many minors are now  
23 quarantined at home with their abuser. Meanwhile, these kids are cut off from their  
24 safety net — the teachers, coaches, and friends' parents who are most likely to notice  
25 and report suspected abuse.... As a result, abuse reports to many state authorities have  
26

27 <sup>62</sup> Available as of the date of filing: <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/reopening-schools.html>.  
28

declined — not because there is less abuse taking place, but because children have less contact with adults outside the home who could potentially spot and report abuse. Sadly, it is likely that the risk of children being sexually abused will increase as shelter-in-place orders continue — one more tragic consequence of the public health crisis the country currently faces.”<sup>63</sup>

88. The CDC reports that teachers and educational staff report more than one-fifth of all child-abuse cases, that during school closures “there has been a sharp decline in reports of suspected maltreatment,” and hospitals have seen an increase in hospitalizations of children suffering from abuse.<sup>64</sup>

89. Although child abuse reports have declined, hospitals are reporting higher numbers of physically abused children – this indicates that abuse is not being detected in time (i.e., before an abuse incident requiring hospitalization). In San Diego, during the months of April and May, 24 children were treated for abuse symptoms, which is double the normal rate. Other locations have seen an increase, including Jacksonville, Florida (8 abusive head trauma cases in March and April instead of 3) and Fort Worth, Texas (9 severe cases at a hospital since March, when they usually have only 6 in the whole year).

#### **One California School District’s Effort to Prepare to Open**

90. As an elected member of the Palos Verdes Peninsula Unified School District (“PVPUSD”), which is located in Los Angeles County, plaintiff Brach was active in the process of preparing the district for school reopenings in the fall.

91. Brach was involved in preparing a “Return to School” survey.

92. This survey found that over 60% of parents in the district believed that there was not enough face-to-face teaching time during the initial shutdown.

93. Over 60% of parents also preferred that their children attend school in a normal in-person setting rather than return to the virtual learning program.

<sup>63</sup> Available as of the date of filing: <https://www.rainn.org/news/first-time-ever-minors-make-half-visitors-national-sexual-assault-hotline>.

<sup>64</sup> *The Importance of Reopening America’s Schools*, *supra*.

1 94. Over 60% of the teachers were comfortable with returning to teach school.

2 95. The survey also showed that due to financial constraints, if the school did  
3 not return to in-person learning, over 7% of parents of TK – 5<sup>th</sup> grade children and over  
4 19% of parents of children between 6<sup>th</sup> – 12<sup>th</sup> grade would have to leave their children  
5 home without supervision.

6 96. PVPUSD established a reopening committee that included staff, medical  
7 professionals and parents.

8 97. PVPUSD was prepared to implement screening including providing a digital  
9 app so parents could answer questions each morning regarding symptoms, and the school  
10 was prepared to take students' temperature to verify the app's data.

11 98. PVPUSD also was prepared to implement the following mitigation strategy:

- 12 a. Staggered arrival times;
- 13 b. Designated entrance and exit routes;
- 14 c. Purchase no touch thermometers;
- 15 d. Procure N95 masks for nurses and cloth masks for students;
- 16 e. Provide water filling stations to avoid use of drinking fountains;
- 17 f. Provide grab/go meals for lunch;
- 18 g. Plexiglas for serving and cashier stations;
- 19 h. Investigation of HVAC system to support air circulation if windows had to  
20 be closed;
- 21 i. Order signage for directional guides and handwashing reminders;
- 22 j. Handwashing stations with foot pedal;
- 23 k. Install touch free sanitizing;
- 24 l. Institute protocols for high touch areas.

25 99. PVPUSD was ready to work with the teachers, parents, and students to  
26 provide options. The 60% of teachers and parents who wanted in-person learning could  
27 have chosen that option, while the remainder could continue their learning with virtual  
28 study. The Governor's new guidance upended these plans by requiring all schools in the

1 county to close, regardless of the efforts made to reopen safely, and the choices of parents,  
2 teachers, and children.

### 3 **Newsom's Doomsday Predictions Have Not Proven True**

4 100. Governor Newsom's rationale for Executive Order N-33-20, his original  
5 shelter in place order, was to "bend the curve."<sup>65</sup> He stated that "[i]n some parts of our  
6 state, our case rate is doubling every four days," and that "[t]he point of the stay at  
7 home order is to make those numbers moot."<sup>66</sup> The Governor added that one goal was  
8 to slowdown transmission enough to reduce the strain it might place on hospital  
9 resources.<sup>67</sup>

10 101. Governor Newsom cited a model showing that as of March 19, 2020, 56  
11 percent of Californians, or more than 25 million people, could be infected over the next  
12 eight weeks.<sup>68</sup>

13 102. Several infectious disease experts, including Professor of Epidemiology  
14 John P.A. Ioannidis of Stanford University, called this an extreme, worst-case scenario  
15 that was unlikely to happen.<sup>69</sup> They turned out to be correct.

16 103. Upon information and belief, another piece of flawed data that drove  
17 California's and Santa Clara County's original, onerous shelter-in-place orders was an  
18 incorrect assumption that the  $R_0$  of COVID-19 was 5.7.

19 104. The "R-naught" is the rate at which people can be infected, or more  
20

21  
22 <sup>65</sup> March 19, 2020 press briefing at 35:17-36:00, available as of the date of filing at  
<https://www.youtube.com/watch?v=8OeyeK8-S5o>.

23 <sup>66</sup> *Id.*

24 <sup>67</sup> *Id.* at 5:42-8:09.

25 <sup>68</sup> *Id.* at 5:00-6:00.

26 <sup>69</sup> *Newsom: 56 % of Californians Could Get Coronavirus If Nothing Is Done*, San  
27 Francisco Chronicle, March 19, 2020, available as of May 3, 2020 at:  
[https://webcache.googleusercontent.com/search?q=cache:sokxG9\\_b-2oJ:https://www.sfchronicle.com/health/article/Newsom-56-of-Californians-could-get-coronavirus-15144438.php+&cd=1&hl=en&ct=clnk&gl=us](https://webcache.googleusercontent.com/search?q=cache:sokxG9_b-2oJ:https://www.sfchronicle.com/health/article/Newsom-56-of-Californians-could-get-coronavirus-15144438.php+&cd=1&hl=en&ct=clnk&gl=us).  
28

precisely the rate of reproduction of the virus as measured by infected human hosts.<sup>70</sup>

105. Upon information and belief, part of the data that the Governor depended on for his claim that 25 million Californians would be infected within eight weeks was the initial rate of infection in Wuhan, the originating epicenter of COVID-19, where the numbers apparently showed a  $R_0$  of 5.7.<sup>71</sup>

106. However, scientists now believe that the  $R_0$  of COVID-19 without mitigation efforts is approximately 2.2-2.7.<sup>72</sup> With mitigation efforts, the  $R_0$  of COVID-19 has been driven down even further.

107. More egregiously, the COVID-19 death rate projections model on which Governor Newsom relied for implementing a state of emergency and mass quarantine of healthy Californians, turned out to be grossly flawed.<sup>73</sup> California has thus far accounted for five point three percent (5.3%) of the nation's COVID-19 deaths while containing twelve percent (12%) of the nation's populace.<sup>74</sup>

108. Governor Newsom's inexplicable restrictions on school reopening are not based on any scientific data and are completely arbitrary, especially in light of the fact that California allows camps and childcare facilities to remain open. More fundamentally, the school closing "plan," which is no plan at all, ignores the state's legal duties to California's children.

<sup>70</sup> <https://www.nytimes.com/2020/04/23/world/europe/coronavirus-R0-explainer.html>.

<sup>71</sup> Available as of the date of filing: [https://wwwnc.cdc.gov/eid/article/26/7/20-0282\\_article](https://wwwnc.cdc.gov/eid/article/26/7/20-0282_article).

<sup>72</sup> *Id.*

<sup>73</sup> Available as of the date of filing: <https://www.statnews.com/2020/04/17/influential-covid-19-model-uses-flawed-methods-shouldnt-guide-policies-critics-say/>.

<sup>74</sup> According to the CDC, California has 6,823 of the United States' 128,035 COVID-19 deaths. Available as of the date of filing at <https://www.cdc.gov/nchs/nvss/vsrr/covid19/index.htm>. According to the U.S. Census, California has 39,512,223 of the United States' 328,239,523 people. Available as of date of filing at <https://www.census.gov/quickfacts/fact/table/CA,US/PST045219>.

**CLAIMS**

**FIRST CLAIM FOR RELIEF**

**42 U.S.C. § 1983 – Violation of Due Process under the Fourteenth Amendment  
Deprivation of Substantive Due Process  
(By All Plaintiffs Against All Defendants)**

109. Plaintiffs incorporate herein by reference each and every allegation contained in the preceding paragraphs of this Complaint as though fully set forth herein

110. The Due Process Clause of the Fourteenth Amendment provides that no state shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend XIV. In particular, “the Due Process Clause specially protects those fundamental rights and liberties which are, objectively, deeply rooted in this Nation’s history and tradition, and implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed.” *Glucksberg*, 521 U.S. at 720–21 (internal citations and quotation marks omitted). Plaintiffs and their children have a fundamental right to a basic, minimum education.

111. Defendants have deprived Plaintiffs and their children of this right in violation of the Fourteenth Amendment to the U.S. Constitution, by effectively precluding children from receiving a basic minimum education because (1) many students have no or limited access to the internet; (2) of those who do have digital access their educations will be significantly impaired; and (3) truancy will run rampant.

112. The U.S. Constitution entitles Plaintiffs to be free from any burden to a fundamental right unless the infringement is narrowly tailored to serve a compelling state interest.

113. Defendants lack any compelling, or even rational, interest for burdening Plaintiffs’ children of their fundamental right to a basic minimum education. The weight of the evidence shows that children’s transmission and infection rates cannot justify school closures. Defendants further ignore that the evidence of mortality risk and severe adverse health outcome risk to children from COVID-19 disease is virtually non-

1 existent.

2 114. Risk to teachers may be managed just as risk to other essential workers is  
3 managed in California – by offering choices and providing protection. The challenges  
4 posed by the situation pale in comparison to the harm being inflicted on California’s  
5 families through the deprivations of their constitutional rights.

6 115. Nor are the Defendants’ actions narrowly tailored. If children can study  
7 and learn in-person, even on a limited basis while in school, but are forced to “learn”  
8 through a means in which they realistically cannot access, then the policy is not  
9 narrowly tailored. Moreover, as seen elsewhere, many other States have provided  
10 options to attend school, including deploying “hybrid” models of mixed virtual and in-  
11 person learning to reduce student contact. While remote instruction may play a role in  
12 the various counties’ approaches, there is no reason to adopt a one-size-fits-all model  
13 for the State, and Defendants’ insistence on such an approach fails any form of  
14 heightened scrutiny.

15 116. Plaintiffs have no adequate remedy at law and will suffer serious and  
16 irreparable harm to their constitutional rights unless Defendants are enjoined from  
17 implementing and enforcing the Governor’s Order and associated guidance.

18 117. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to  
19 declaratory relief and temporary, preliminary, and permanent injunctive relief  
20 invalidating and restraining enforcement of the State Order and associated guidance.

21 118. Plaintiffs found it necessary to engage the services of private counsel to  
22 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
23 attorneys’ fees pursuant to 42 U.S.C. § 1988.

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**SECOND CLAIM FOR RELIEF**

**42 U.S.C. § 1983 – Violation of the Equal Protection Clause**

**under the Fourteenth Amendment**

**Arbitrary School Closures**

**(By All Plaintiffs Against All Defendants)**

119. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as though fully set forth herein.

120. The equal protection doctrine prohibits “governmental classifications that affect some groups of citizens differently than others.” *Engquist v. Or. Dep’t. of Agric.*, 553 U.S. 591, 601 (2008) (citations omitted). The touchstone of this analysis is whether a state creates disparity “between classes of individuals whose situations are arguably indistinguishable.” *Ross v. Moffitt*, 417 U.S. 600, 609 (1974).

121. The framework for reopening schools arbitrarily treats Plaintiffs’ children (and other minors attending public and private schools) differently from those in nearby school districts; from those in childcare; and from those attending summer camps, even though all such children and their families are similarly situated.

122. The risk of exposure or transmission within in any particular county is substantially the same whether children are at school, daycare, or at camp. Children at summer camp, daycare, and in school will be in the presence of other children, in an enclosed or semi-enclosed space, overseen by an older person(s) not comprised of the child’s family unit, for an extended period, and industry guidance issued for schools, camps, and daycare, contains the same or essentially the same protocols for wearing face coverings, physically distancing, hygiene, cleaning, arrival/departure procedures, sharing, checking for signs and symptoms and notification procedures if a child or staff member becomes ill. Yet only schools are subject to the Governor’s mandated closure orders.

123. Defendants’ actions arbitrarily restrict access to schools based on the location of the school. Children residing in any particular county, including those

1 counties in which Defendants have forcibly shut down in-person instruction, may still  
2 attend private school in nearby counties, despite the state's assignment of differing  
3 levels of risk or exposure to the virus.

4 124. There is no rational basis—much less any compelling reason—for  
5 Defendants' arbitrary treatment of schools, which are vital to children's development  
6 but subject to more severe restrictions and potentially outright closure. Moreover, to the  
7 extent the state has a compelling interest in ensuring that parents, children, and teachers  
8 afraid of contracting COVID-19 are not forced to return to school this fall, less  
9 restrictive alternatives to Defendants' closure regime exist, such as requiring schools to  
10 *enable* distanced learning over the internet. Nor is Defendants' overbearing, one-size-  
11 fits-all regime narrowly tailored to prevent to the spread of COVID-19 in schools. As  
12 the example from the Palos Verdes Peninsula Unified School District illustrates, there  
13 are a number of steps schools can take to protect their students while still providing  
14 effective in-person education.

15 125. Defendants' intentional, discriminatory, and arbitrary imposition of state-  
16 wide restrictions on school reopening violate Plaintiffs' right to equal protection under  
17 the law.

18 126. Plaintiffs have no adequate remedy at law and will suffer serious and  
19 irreparable harm to their and/or their children's constitutional rights unless Defendants  
20 are enjoined from implementing and enforcing the Governor's Order and associated  
21 guidance documents which restrict the reopening of schools in a manner that violates  
22 the Equal Protection Clause.

23 127. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to  
24 declaratory relief and temporary, preliminary, and permanent injunctive relief  
25 invalidating and restraining enforcement of the Governor's Order and any associated  
26 guidance documents.

27 128. Plaintiffs found it necessary to engage the services of private counsel to  
28 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of

attorneys' fees pursuant to 42 U.S.C. § 1988.

### THIRD CLAIM FOR RELIEF

#### 42 U.S.C. § 1983 – Violation of Title VI of Civil Rights Act of 1964

##### Disparate Impact on Racial Minorities

(By Christine Ruiz, Z. R., Brian Hawkins, Marianna Bema, Ashley Ramirez,  
Tiffany Mitrowke, and Ade Onibokun Against All Defendants)

129. Plaintiffs incorporate herein by reference each and every allegation contained in the preceding paragraphs of this Complaint as though fully set forth herein.

130. Federal law conveys to Plaintiffs the right to be free from enforcement of facially discriminatory laws, facially neutral laws adopted with discriminatory intent or purpose, and facially neutral laws causing a disparate impact on racial minorities with regard to federally funded public programs, including California's public schools. 42 U.S.C. 2000d, *et seq.* (Title VI of the Civil Rights Act of 1964); 28 C.F.R. § 42.104(b)(2). Section 1983, in turn, creates a private right of action against the deprivation of such federal rights against officials acting under color of state law, despite there being no private right of action under a disparate impact theory pursuant to Title VI itself. *See* 42 U.S.C. § 1983; *Alexander v. Sandoval*, 532 U.S. 275, 300 (2001) (Stevens, J., dissenting) (“[l]itigants who in the future wish to enforce the Title VI [disparate impact] regulations against state actors in all likelihood must only reference § 1983 to obtain relief.”)

131. Mandatory distance learning has a negative, disparate impact on racial minorities. Distance learning is more difficult for many minority students, who tend to have less access to technology. Additionally, schools serving primarily minority students have provided demonstrably less effective distance learning than other schools. And the order applies to counties with disproportionately greater minority populations than those not on the county monitoring list.

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///

132. Defendants have acted arbitrarily and with deliberate indifference toward the unduly harsh effects their school restrictions have on racial minorities who have less access to technology, are provided less effective distance-learning, and are more heavily impacted by the orders.

133. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm to their constitutional rights under Title VI and its implementing regulations unless Defendants are enjoined from implementing and enforcing their broad prohibitions on in-person education in California.

134. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to declaratory relief and temporary, preliminary, and permanent injunctive relief invalidating and restraining enforcement of the Governor's Order.

135. Plaintiffs found it necessary to engage the services of private counsel to vindicate their rights under the law. Plaintiffs are therefore entitled to an award of attorneys' fees pursuant to 42 U.S.C. § 1988.

#### FOURTH CLAIM FOR RELIEF

**42 U.S.C. § 1983 – Violation of Federal Disability Rights Statutes;**

**Failure to Provide Appropriate and Equal Educational to Disabled Students  
(By Plaintiffs Christine Ruiz, Z. R., Brian Hawkins, Marianna Bema, and Ashley  
Ramirez against All Defendants)**

136. Plaintiffs incorporate herein by reference each and every allegation contained in the preceding paragraphs of this Complaint as though fully set forth herein.

137. Federal law provides all disabled children in California the right to a free appropriate public education, individualized education plans conferring educational benefit, appropriate identification and evaluation, and the right to be free from discrimination on the basis of any disability, including through the exclusion from or deprivation of equal access to the educational opportunities. *See* 20 U.S.C. § 1400, *et seq.* (Individuals with Disabilities Education Act (“IDEA”)); 42 U.S.C.A. § 12131, *et*

1 *seq.*, (Title II of the Americans with Disabilities Act of 1990 (“ADA”)); 29 U.S.C. §  
2 794, *et seq.*, (Section 504 of the Rehabilitation Act of 1973).

3 138. Defendants’ arbitrarily imposed restrictions on the reopening of schools,  
4 including the forced closure of many public and private schools and the imposition of  
5 online-only learning, deprives disabled children in California of these rights, which are  
6 secured by the above-cited federal laws.

7 139. Defendants acted knowingly, recklessly, and with deliberate indifference  
8 to the rights of disabled children in California by forcibly preventing most private and  
9 public schools in California from providing disabled students with specialized  
10 instruction and related services commensurate with the schools’ obligations under  
11 federal law, as well as from providing disabled students equal access to education as  
12 required by federal law.

13 140. Plaintiffs have no adequate remedy at law and will suffer serious and  
14 irreparable harm in the form of the deprivation of educational opportunities, related  
15 services, and other educational and non-discrimination rights secured by federal law,  
16 unless Defendants are enjoined from implementing and enforcing the school closure.

17 141. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to  
18 declaratory relief and temporary, preliminary, and permanent injunctive relief  
19 invalidating and restraining enforcement of the state orders and any associated  
20 guidance.

21 142. Plaintiffs found it necessary to engage the services of private counsel to  
22 vindicate their rights under the law. They are therefore entitled to an award of  
23 attorneys’ fees pursuant to 42 U.S.C. § 1988.

24 **WHEREFORE**, Plaintiffs respectfully request that this Court enter judgment  
25 against Defendants as follows:

- 26 • An order and judgment declaring that the Governor’s Order and the associated  
27 guidance, facially and as-applied to Plaintiffs, violates the Equal Protection  
28 and Due Process Clauses of the Fourteenth Amendment to the U.S.

1 Constitution; Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, *et*  
 2 *seq.*); the Individuals with Disabilities Education Act (20 U.S.C. § 1400, *et*  
 3 *seq.*); Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §  
 4 12131, *et seq.*); and/or Section 504 of the Rehabilitation Act of 1973 (29  
 5 U.S.C. § 794, *et seq.*), and that Plaintiffs' children should be allowed in-  
 6 person instruction without delay;

- 7 • An order temporarily, preliminarily, and permanently enjoining and
- 8 prohibiting Defendants from enforcing the State Order or otherwise
- 9 interfering with Plaintiffs' constitutional rights and federal guarantees;
- 10 • For attorneys' fees and costs;
- 11 • Such other and further relief as the Court deems appropriate and just.

12  
 13 Date: July 29, 2020

DHILLON LAW GROUP INC.

14  
 15 By: /s/ Harmeet K. Dhillon

16 Harmeet K. Dhillon

17 Mark P. Meuser

18 Gregory R. Michael

Michael Yoder (pro hac vice pending)

19 EIMER STAHL LLP

20 Robert Dunn

21 Ryan J. Walsh (pro hac vice pending)

22 John K. Adams (pro hac vice pending)

23 Amy C. Miller (pro hac vice pending)

24 Attorneys for Plaintiffs

# **EXHIBIT 1**

EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA

EXECUTIVE ORDER N-60-20

**WHEREAS** on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

**WHEREAS** on March 19, 2020, I issued Executive Order N-33-20, which directed all California residents to immediately heed current State public health directives; and

**WHEREAS** State public health directives, available at <https://covid19.ca.gov/stay-home-except-for-essential-needs/>, have ordered all California residents stay home except for essential needs, as defined in State public health directives; and

**WHEREAS** COVID-19 continues to menace public health throughout California; and

**WHEREAS** the extent to which COVID-19 menaces public health throughout California is expected to continue to evolve, and may vary from place to place within the State; and

**WHEREAS** California law promotes the preservation of public health by providing for local health officers—appointed by county boards of supervisors and other local authorities—in addition to providing for statewide authority by a State Public Health Officer; and

**WHEREAS** these local health officers, working in consultation with county boards of supervisors and other local authorities, are well positioned to understand the local needs of their communities; and

**WHEREAS** local governments are encouraged to coordinate with federally recognized California tribes located within or immediately adjacent to the external geographical boundaries of such local government jurisdiction; and

**WHEREAS** the global COVID-19 pandemic threatens the entire State, and coordination between state and local public health officials is therefore, and will continue to be, necessary to curb the spread of COVID-19 throughout the State; and

**WHEREAS** State public health officials have worked, and will continue to work, in consultation with their federal, state, and tribal government partners; and

**WHEREAS** the State Public Health Officer has articulated a four-stage framework—which includes provisions for the reopening of lower-risk businesses and spaces (“Stage Two”), to be followed by the reopening of higher-risk businesses and spaces (“Stage Three”)—to allow Californians to gradually resume various activities while continuing to preserve public health in the face of COVID-19; and

**WHEREAS** the threat posed by COVID-19 is dynamic and ever-changing, and the State's response to COVID-19 (including implementation of the four-stage framework) should likewise retain the ability to be dynamic and flexible; and

**WHEREAS** to preserve this flexibility, and under the provisions of Government Code section 8571, I find that strict compliance with the Administrative Procedure Act, Government Code section 11340 et seq., would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

**NOW, THEREFORE, I, GAVIN NEWSOM**, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, 8627, and 8665; and also in accordance with the authority vested in the State Public Health Officer by the laws of the State of California, including but not limited to Health and Safety Code sections 120125, 120130, 120135, 120140, 120145, 120150, 120175, and 131080; do hereby issue the following Order to become effective immediately:

**IT IS HEREBY ORDERED THAT:**

- 1) All residents are directed to continue to obey State public health directives, as made available at <https://covid19.ca.gov/stay-home-except-for-essential-needs/> and elsewhere as the State Public Health Officer may provide.
- 2) As the State moves to allow reopening of lower-risk businesses and spaces ("Stage Two"), and then to allow reopening of higher-risk businesses and spaces ("Stage Three"), the State Public Health Officer is directed to establish criteria and procedures—as set forth in this Paragraph 2—to determine whether and how particular local jurisdictions may implement public health measures that depart from the statewide directives of the State Public Health Officer.

In particular, the State Public Health Officer is directed to establish criteria to determine whether and how, in light of the extent to which the public health is menaced by COVID-19 from place to place within the State, local health officers may (during the relevant stages of reopening) issue directives to establish and implement public health measures less restrictive than any public health measures implemented on a statewide basis pursuant to the statewide directives of the State Public Health Officer.

The State Public Health Officer is further directed to establish procedures through which local health officers may (during the relevant stages of reopening) certify that, if their respective jurisdictions are subject to proposed public health measures (which they shall specify to the extent such specification may be required by the State Public Health Officer) that are less restrictive than public health measures implemented on a statewide basis pursuant to the statewide directives of the State Public Health Officer, the public health will not be menaced. The State Public Health Officer shall additionally establish procedures to permit, in a manner consistent with public health and

safety, local health officers who submit such certifications to establish and implement such less restrictive public health measures within their respective jurisdictions.

The State Public Health Officer may, from time to time and as she deems necessary to respond to the dynamic threat posed by COVID-19, revise the criteria and procedures set forth in this Paragraph 2. Nothing related to the establishment or implementation of such criteria or procedures, or any other aspect of this Order, shall be subject to the Administrative Procedure Act, Government Code section 11340 et seq. Nothing in this Paragraph 2 shall limit the authority of the State Public Health Officer to take any action she deems necessary to protect public health in the face of the threat posed by COVID-19, including (but not limited to) any necessary revision to the four-stage framework previously articulated by the State Public Health Officer.

- 3) Nothing in this Order shall be construed to limit the existing authority of local health officers to establish and implement public health measures within their respective jurisdictions that are more restrictive than, or that otherwise exist in addition to, the public health measures imposed on a statewide basis pursuant to the statewide directives of the State Public Health Officer.

**IT IS FURTHER ORDERED** that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of May 2020.



\_\_\_\_\_  
GAVIN NEWSOM  
Governor of California

**ATTEST:**

\_\_\_\_\_  
ALEX PADILLA  
Secretary of State

## **EXHIBIT 2**



# COVID-19 INDUSTRY GUIDANCE: Schools and School- Based Programs

Release date: **July 17, 2020**

*All guidance should be implemented only with county health officer approval following their review of local epidemiological data including cases per 100,000 population, rate of test positivity, and local preparedness to support a health care surge, vulnerable populations, contact tracing, and testing.*



## OVERVIEW

Communities across the state are preparing for the forthcoming school year. To assist with that planning process, the following guidelines and considerations are intended to help school and community leaders plan and prepare to resume in-person instruction.

This guidance is interim and subject to updates. These guidelines and considerations are based on the best available public health data at this time, international best practices currently employed, and the practical realities of managing school operations; as new data and practices emerge. Additionally, the guidelines and considerations do not reflect the full scope of issues that school communities will need to address, which range from day-to-day site-based logistics to the social and emotional well-being of students and staff.

California public schools (traditional and charter), private schools (including nonpublic nonsectarian schools), school districts, and county offices of education, herein referred to as schools, will determine the most appropriate instructional model, taking into account the needs of their students and staff, and their available infrastructure. This guidance is not intended to prevent a school from adopting a distance learning, hybrid, or mixed-delivery instructional model to ensure safety. Schools are not required to seek out or receive approval from a state or local public health officer prior to adopting a distance-learning model.

Implementation of this guidance will depend on local public health conditions, including those listed [here](#). Communities meeting those criteria, such as lower incidence of COVID-19 and adequate preparedness, may implement the guidance described below as part of a phased reopening. All decisions about following this guidance should be made in collaboration with local health officials and other authorities.

Implementation of this guidance should be tailored for each setting, including adequate consideration of instructional programs operating at each school site and the needs of students and families. School leaders should engage relevant stakeholders—including families, staff and labor partners in the school community—to formulate and implement plans that consider the following:

- **Student, Family and Staff Population:** Who are the student, family and staff populations who will be impacted by or can serve as partners in implementing any of the following measures?
- **Ability to Implement or Adhere to Measures:** Do staff, students and families have the tools, information, resources and ability to successfully adhere to or implement the new measures?
- **Negative or Unintended Consequences:** Are there any negative or unintended consequences to staff, students or families of implementing the measures and how can those consequences be mitigated?

This guidance is not intended to revoke or repeal any worker rights, either statutory, regulatory or collectively bargained, and is not exhaustive, as it does not include county health orders, nor is it a substitute for any existing safety and health-related regulatory requirements such as those of Cal/OSHA. Stay current on changes to public health guidance and state/local orders, as the COVID-19 situation continues.



# 1. General Measures

- Establish and continue communication with local and State authorities to determine current disease levels and control measures in your community. For example:
  - Review and refer to, if applicable, the relevant county variance documentation. Documentation can be found [here](#).
  - Consult with your county health officer, or designated staff, who are best positioned to monitor and provide advice on local conditions. A directory can be found [here](#).
  - Collaborate with other schools and school partners in your region, including the county office of education.
  - Regularly review updated guidance from state agencies, including the [California Department of Public Health](#) and [California Department of Education](#).
- Establish a written, worksite-specific COVID-19 prevention plan at every facility, perform a comprehensive risk assessment of all work areas and work tasks, and designate a person at each school to implement the plan.
  - Identify contact information for the local health department where the school is located for communicating information about COVID-19 outbreaks among students or staff.
  - Incorporate the [CDPH Guidance](#) for the Use of Face Coverings, into the School Site Specific Plan that includes a policy for handling exemptions.
  - Train and communicate with workers and worker representatives on the plan. Make the written plan available and accessible to workers and worker representatives.
  - Regularly evaluate the workplace for compliance with the plan and document and correct deficiencies identified.
  - Investigate any COVID-19 illness and determine if any work-related factors could have contributed to risk of infection. Update the plan as needed to prevent further cases.
  - Implement the necessary processes and protocols when a workplace has an outbreak, in accordance with [CDPH guidelines](#).
  - Identify individuals who have been in close contact (within six feet for

15 minutes or more) of an infected person and take steps to isolate COVID-19 positive person(s) and close contacts. See Section 10 for more detail.

- Adhere to these guidelines. Failure to do so could result in workplace illnesses that may cause classrooms or the entire school to be temporarily closed or limited.
- Evaluate whether and to what extent external community organizations can safely utilize the site and campus resources. Ensure external community organizations that use the facilities also follow this guidance.
- Develop a plan for the possibility of repeated closures of classes, groups or entire facilities when persons associated with the facility or in the community become ill with COVID-19. See Section 10 below.
- Develop a plan to further support students with access and functional needs who may be at increased risk of becoming infected or having unrecognized illness due to COVID-19. For example, review existing student health plans to identify students who may need additional accommodations, develop a process for engaging families for potentially unknown concerns that may need to be accommodated or identify additional preparations for classroom and non-classroom environments as needed. Groups who might be at increased risk of becoming infected or having unrecognized illness include the following:
  - Individuals who have limited mobility or require prolonged and close contact with others, such as direct support providers and family members;
  - Individuals who have trouble understanding information or practicing preventive measures, such as hand washing and physical distancing; and
  - Individuals who may not be able to communicate symptoms of illness.
- Schools should review the [CDPH Guidance for the Use of Face Coverings](#) and any applicable local health department guidance and incorporate face-covering use for students and workers into their COVID-19 prevention plan. Some flexibility may be needed for younger children consistent with child development recommendations. See Section 3 for more information.



## 2. Promote Healthy Hygiene Practices

- Teach and reinforce [washing hands](#), avoiding [contact with one's eyes, nose, and mouth](#), and [covering coughs and sneezes](#) among students and staff.
  - Teach students and remind staff to use tissue to wipe their nose and to cough/sneeze inside a tissue or their elbow.
  - Students and staff should wash their hands frequently throughout the day, including before and after eating; after coughing or sneezing; after classes where they handle shared items, such as outside recreation, art, or shop; and before and after using the restroom.
  - Students and staff should wash their hands for 20 seconds with soap, rubbing thoroughly after application. Soap products marketed as “antimicrobial” are not necessary or recommended.
  - Staff should model and practice handwashing. For example, for lower grade levels, use bathroom time as an opportunity to reinforce healthy habits and monitor proper handwashing.
  - Students and staff should use fragrance-free hand sanitizer when handwashing is not practicable. Sanitizer must be rubbed into hands until completely dry. Note: frequent handwashing is more effective than the use of hand sanitizers.
  - Ethyl alcohol-based hand sanitizers are preferred and should be used when there is the potential of unsupervised use by children.
    - Isopropyl hand sanitizers are more toxic when ingested or absorbed in skin.
    - Do not use hand sanitizers that may [contain methanol](#) which can be hazardous when ingested or absorbed.
  - Children under age 9 should only use hand sanitizer under adult supervision. Call Poison Control if consumed: 1-800-222-1222.
- Consider portable handwashing stations throughout a site and near classrooms to minimize movement and congregations in bathrooms to the extent practicable.
- Develop routines enabling students and staff to regularly wash their hands at staggered intervals.
- Ensure adequate supplies to support healthy hygiene behaviors, including soap, tissues, no-touch trashcans, face coverings, and hand sanitizers with at least 60 percent ethyl alcohol for staff and children who can safely use hand sanitizer.

- Information contained in the [CDPH Guidance](#) for the Use of Face Coverings should be provided to staff and families, which discusses the circumstances in which face coverings must be worn and the exemptions, as well as any policies, work rules, and practices the employer has adopted to ensure the use of face coverings.
- Employers must provide and ensure staff use face coverings in accordance with CDPH guidelines and all required protective equipment.
- The California Governor's Office of Emergency Services (CalOES) and the Department of Public Health (CDPH) are and will be working to support procurement and distribution of face coverings and personal protective equipment. Additional information can be found [here](#).
- Strongly recommend that all students and staff be immunized each autumn against influenza unless contraindicated by personal medical conditions, to help:
  - Protect the school community
  - Reduce demands on health care facilities
  - Decrease illnesses that cannot be readily distinguished from COVID-19 and would therefore trigger extensive measures from the school and public health authorities.
- Nothing in this guidance should be interpreted as restricting access to appropriate educational services.



### 3. Face Coverings

Face coverings must be used in accordance with [CDPH guidelines](#) unless a person is exempt as explained in the guidelines, particularly in indoor environments, on school buses, and areas where physical distancing alone is not sufficient to prevent disease transmission.

- Teach and reinforce use of [face coverings](#), or in limited instances, face shields.
- Students and staff should be frequently reminded not to touch the face covering and to [wash their hands](#) frequently.
- Information should be provided to all staff and families in the school community on [proper use, removal, and washing of cloth face coverings](#).
- Training should also include policies on how people who are exempted from wearing a face covering will be addressed.

## STUDENTS

Age	Face Covering Requirement
Under 2 years old	No
2 years old – 2 <sup>nd</sup> grade	Strongly encouraged**
3 <sup>rd</sup> grade – High School	Yes, unless exempt

\*\*Face coverings are strongly encouraged for young children between two years old and second grade, if they can be worn properly. A face shield is an acceptable alternative for children in this cohort who cannot wear them properly.

- Persons younger than two years old, anyone who has trouble breathing, anyone who is unconscious or incapacitated, and anyone who is otherwise unable to remove the face covering without assistance are exempt from wearing a face covering.
- A cloth face covering or face shield should be removed for meals, snacks, naptime, or outdoor recreation, or when it needs to be replaced. When a cloth face covering is temporarily removed, it should be placed in a clean paper bag (marked with the student's name and date) until it needs to be put on again.
- In order to comply with this guidance, schools must exclude students from campus if they are not exempt from wearing a face covering under CDPH guidelines and refuse to wear one provided by the school. Schools should develop protocols to provide a face covering to students who inadvertently fail to bring a face covering to school to prevent unnecessary exclusions. Schools should offer alternative educational opportunities for students who are excluded from campus.

## STAFF

- All staff must use face coverings in accordance with [CDPH guidelines](#) unless Cal/OSHA standards require respiratory protection.
- In limited situations where a face coverings cannot be used for pedagogical or developmental reasons, (i.e. communicating or assisting young children or those with special needs) a face shield can be used instead of a cloth face covering while in the classroom as long as the wearer maintains physical distance from others, to the extent practicable. Staff must return to wearing a face covering outside of the classroom.

- Workers or other persons handling or serving food must use gloves in addition to face coverings. Employers should consider where disposable glove use may be helpful to supplement frequent handwashing or use of hand sanitizer; examples are for workers who are screening others for symptoms or handling commonly touched items.



## 4. Ensure Teacher and Staff Safety

- Ensuring staff maintain physical distancing from each other is critical to reducing transmission between adults.
- Ensure that all staff use face coverings in accordance with CDPH guidelines and Cal/OSHA standards.
- Support staff who are at higher risk for severe illness or who cannot safely distance from household contacts at higher risk, by providing options such as telework, where appropriate, or teaching in a virtual learning or independent study context.
- Conduct all staff meetings, professional development training and education, and other activities involving staff with physical distancing measures in place, or virtually, where physical distancing is a challenge.
- Minimize the use of and congregation of adults in staff rooms, break rooms, and other settings.
- Implement procedures for daily symptom monitoring for staff.



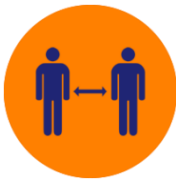
## 5. Intensify Cleaning, Disinfection, and Ventilation

- Consider suspending or modifying use of site resources that necessitate sharing or touching items. For example, consider suspending use of drinking fountains and instead encourage the use of reusable water bottles.
- Staff should [clean and disinfect](#) frequently-touched surfaces at school and on school buses at least daily and, as practicable, these surfaces should be cleaned and disinfected frequently throughout the day by trained custodial staff.
- Buses should be thoroughly cleaned and disinfected daily and after transporting any individual who is exhibiting symptoms of COVID-19. Drivers should be provided disinfectant wipes and disposable gloves to

support disinfection of frequently touched surfaces during the day.

- Frequently touched surfaces in the school include, but are not limited to:
  - Door handles
  - Light switches
  - Sink handles
  - Bathroom surfaces
  - Tables
  - Student Desks
  - Chairs
- Limit use and sharing of objects and equipment, such as toys, games, art supplies and playground equipment to the extent practicable. When shared use is allowed, clean and disinfect between uses.
- When choosing disinfecting products, use those approved for use against COVID-19 on the [Environmental Protection Agency \(EPA\)-approved list "N"](#) and follow product instructions.
  - To [reduce the risk of asthma](#) and other health effects related to disinfecting, programs should select disinfectant products on list N with asthma-safer ingredients (hydrogen peroxide, citric acid or lactic acid) as recommended by the US EPA Design for Environment program.
  - Avoid products that contain peroxyacetic (peracetic) acid, sodium hypochlorite (bleach) or quaternary ammonium compounds, which can cause asthma.
  - Follow label directions for appropriate dilution rates and contact times. Provide workers training on the chemical hazards, manufacturer's directions, Cal/OSHA requirements for safe use, and as applicable and as required by the Healthy Schools Act.
  - Custodial staff and any other workers who clean and disinfect the school site must be equipped with proper protective equipment, including gloves, eye protection, respiratory protection, and other appropriate protective equipment as required by the product instructions. All products must be kept out of children's reach and stored in a space with restricted access.
  - Establish a cleaning and disinfecting schedule in order to avoid both under- and over-use of cleaning products.

- Ensure safe and correct application of disinfectant and keep products away from students.
- Ensure proper ventilation during cleaning and disinfecting. Introduce fresh outdoor air as much as possible, for example, by opening windows where practicable. When cleaning, air out the space before children arrive; plan to do thorough cleaning when children are not present. If using air conditioning, use the setting that brings in outside air. Replace and check air filters and filtration systems to ensure optimal air quality.
  - If opening windows poses a safety or health risk (e.g., by allowing pollen in or exacerbating asthma symptoms) to persons using the facility, consider alternatives. For example, maximize central air filtration for HVAC systems (targeted filter rating of at least MERV 13).
- Consider installing portable high-efficiency air cleaners, upgrading the building's air filters to the highest efficiency possible, and making other modifications to increase the quantity of outside air and ventilation in classrooms, offices and other spaces.
- [Take steps](#) to ensure that all water systems and features (for example, drinking fountains and decorative fountains) are safe to use after a prolonged facility shutdown to minimize the risk of [Legionnaires' disease](#) and other diseases associated with water.



## 6. Implementing Distancing Inside and Outside the Classroom



### Arrival and Departure

- Maximize space between students and between students and the driver on school buses and open windows to the greatest extent practicable.
- Minimize contact at school between students, staff, families and the community at the beginning and end of the school day. Prioritize minimizing contact between adults at all times.
- Stagger arrival and drop off-times and locations as consistently as practicable as to minimize scheduling challenges for families.
- Designate routes for entry and exit, using as many entrances as feasible. Put in place other protocols to limit direct contact with others as much as practicable.
- Implement health screenings of students and staff upon arrival at school (see Section 9).

- Ensure each bus is equipped with extra unused face coverings on school buses for students who may have inadvertently failed to bring one.

## **Classroom Space**

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- To reduce possibilities for infection, students must remain in the same space and in cohorts as small and consistent as practicable, including for recess and lunch. Keep the same students and teacher or staff with each group, to the greatest extent practicable.
- Prioritize the use and maximization of outdoor space for activities where practicable.
- Minimize movement of students and teachers or staff as much as practicable. For example, consider ways to keep teachers with one group of students for the whole day. In secondary schools or in situations where students have individualized schedules, plan for ways to reduce mixing among cohorts and to minimize contact.
- Maximize space between seating and desks. Distance teacher and other staff desks at least six feet away from student desks. Consider ways to establish separation of students through other means if practicable, such as, six feet between desks, where practicable, partitions between desks, markings on classroom floors to promote distancing or arranging desks in a way that minimizes face-to-face contact.
- Consider redesigning activities for smaller groups and rearranging furniture and play spaces to maintain separation.
- Staff should develop instructions for maximizing spacing and ways to minimize movement in both indoor and outdoor spaces that are easy for students to understand and are developmentally appropriate.
- Activities where there is increased likelihood for transmission from contaminated exhaled droplets such as band and choir practice and performances are not permitted.
- Activities that involve singing must only take place outdoors.
- Implement procedures for turning in assignments to minimize contact.
- Consider using privacy boards or clear screens to increase and enforce separation between staff and students.



## Non-Classroom Spaces

- Limit nonessential visitors, volunteers and activities involving other groups at the same time.
- Limit communal activities where practicable. Alternatively, stagger use, properly space occupants and disinfect in between uses.
- Consider use of non-classroom space for instruction, including regular use of outdoor space, weather permitting. For example, consider part-day instruction outside.
- Minimize congregate movement through hallways as much as practicable. For example, establish more ways to enter and exit a campus, create staggered passing times when necessary or when students cannot stay in one room and create guidelines on the floor that students can follow to enable physical distancing while passing. In addition, schools can consider eliminating the use of lockers and moving to block scheduling, which supports the creation of cohort groups and reduces changes of classrooms.
- Serve meals outdoors or in classrooms instead of cafeterias or group dining rooms where practicable. Where cafeterias or group dining rooms must be used, keep students together in their cohort groups, ensure physical distancing, and consider assigned seating. Serve individually plated or bagged meals. Avoid sharing of foods and utensils and buffet or family-style meals.
- Consider holding recess activities in separated areas designated by class.



## 7. Limit Sharing

- Keep each child's belongings separated and in individually labeled storage containers, cubbies or areas. Ensure belongings are taken home each day to be cleaned.
- Ensure adequate supplies to minimize sharing of high-touch materials (art supplies, equipment, etc.) to the extent practicable or limit use of supplies and equipment to one group of children at a time and clean and disinfect between uses.
- Avoid sharing electronic devices, clothing, toys, books and other games or learning aids as much as practicable. Where sharing occurs, clean and disinfect between uses.



## 8. Train All Staff and Educate Families

- Train all staff and provide educational materials to families in the following safety actions:
  - Enhanced sanitation practices
  - Physical distancing guidelines and their importance
  - [Proper use, removal, and washing of face coverings](#)
  - Screening practices
  - How COVID-19 is spread
  - COVID-19 specific [symptom](#) identification
  - Preventing the spread of COVID-19 if you are sick, including the importance of not coming to work if staff members have symptoms, or if they or someone they live with has been diagnosed with COVID-19.
  - For workers, COVID-19 specific [symptom](#) identification and when to seek medical attention
  - The employer's plan and procedures to follow when children or adults become sick at school.
  - The employer's plan and procedures to protect workers from COVID-19 illness.
- Consider conducting the training and education virtually, or, if in-person, ensure a minimum of six-foot distancing is maintained.



## 9. Check for Signs and Symptoms

- Prevent discrimination against students who (or whose families) were or are diagnosed with COVID-19 or who are perceived to be a COVID-19 risk.
- Actively encourage staff and students who are sick or who have recently had [close contact](#) with a person with COVID-19 to stay home. Develop policies that encourage sick staff and students to stay at home without fear of reprisal, and ensure staff, students and students' families are aware of these policies.
- Implement screening and other procedures for all staff and students entering the facility.

- Conduct visual wellness checks of all students or establish procedures for parents to monitor at home. If checking temperatures, use a no-touch thermometer.
- Ask all individuals if they or anyone in their home is exhibiting [COVID-19 symptoms](#).
- Make available and encourage use of hand-washing stations or hand sanitizer.
- Document/track incidents of possible exposure and notify local health officials, staff and families immediately of any exposure to a positive case of COVID-19 at school while maintaining confidentiality, as required under FERPA and state law related to privacy of educational records. Additional guidance can be found [here](#). As noted in Section 11 below, the staff liaison can serve a coordinating role to ensure prompt and responsible notification.
- If a student is exhibiting symptoms of COVID-19, staff should communicate with the parent/caregiver and refer to the student's health history form and/or emergency card.
- Monitor staff and students throughout the day for signs of illness; send home students and staff with a fever of 100.4 degrees or higher, cough or other [COVID-19 symptoms](#).
- Policies should not penalize students and families for missing class.



## 10. Plan for When a Staff Member, Child or Visitor Becomes Sick

- Work with school administrators, nurses and other healthcare providers to identify an isolation room or area to separate anyone who exhibits symptoms of COVID-19.
- Any students or staff exhibiting symptoms should immediately be required to wear a face covering and be required to wait in an isolation area until they can be transported home or to a healthcare facility, as soon as practicable.
- Establish procedures to arrange for safe transport home or to a healthcare facility, as appropriate, when an individual is exhibiting COVID-19 symptoms:
  - Fever
  - Cough

- Shortness of breath or difficulty breathing
  - Chills
  - Repeated shaking with chills
  - Fatigue
  - Muscle pain
  - Headache
  - Sore throat
  - Congestion or runny nose
  - Nausea or vomiting
  - Diarrhea
  - New loss of taste or smell
- For serious injury or illness, call 9-1-1 without delay. Seek medical attention if COVID-19 symptoms become severe, including persistent pain or pressure in the chest, confusion, or bluish lips or face. Updates and further details are available on [CDC's webpage](#).
  - Notify local health officials immediately of any positive case of COVID-19, and exposed staff and families as relevant while maintaining confidentiality as required by state and federal laws. Additional guidance can be found [here](#).
  - Close off areas used by any individual suspected of being infected with the virus that causes COVID-19 and do not use before cleaning and disinfection. To reduce risk of exposure, wait 24 hours before you [clean and disinfect](#). If it is not possible to wait 24 hours, wait as long as practicable. Ensure a [safe and correct application](#) of disinfectants using personal protective equipment and ventilation recommended for cleaning. Keep disinfectant products away from students.
  - Advise sick staff members and students not to return until they have met CDC criteria to discontinue [home isolation](#), including at least 3 days with no fever, symptoms have improved and at least 10 days since symptoms first appeared.
  - Ensure that students, including students with disabilities, have access to instruction when out of class, as required by federal and state law.
  - Schools should offer distance learning based on the unique circumstances of each student who would be put at-risk by an in-person instructional model. For example, students with a health condition,

students with family members with a health condition, students who cohabitate or regularly interact with high-risk individuals, or are otherwise identified as “at-risk” by the parents or guardian, are students whose circumstances merit coffering distances learning.

- Implement the necessary processes and protocols when a school has an outbreak, in accordance with [CDPH guidelines](#).
- Investigate the COVID-19 illness and exposures and determine if any work-related factors could have contributed to risk of infection. Update protocols as needed to prevent further cases.
- Update protocols as needed to prevent further cases. See the CDPH guidelines, [Responding to COVID-19 in the Workplace](#), which are incorporated into this guidance and contain detailed recommendations for establishing a plan to identify cases, communicating with workers and other exposed persons, and conducting and assisting with contact tracing.



## 11. Maintain Healthy Operations

- Monitor staff absenteeism and have a roster of trained back-up staff where available.
- Monitor the types of illnesses and symptoms among your students and staff to help isolate them promptly as needed.
- Designate a staff liaison or liaisons to be responsible for responding to COVID-19 concerns. Workers should know who they are and how to contact them. The liaison should be trained to coordinate the documentation and tracking of possible exposure, in order to notify local health officials, staff and families in a prompt and responsible manner.
- Maintain communication systems that allow staff and families to self-report symptoms and receive prompt notifications of exposures and closures, while maintaining confidentiality, as required by FERPA and state law related to privacy of educational records. Additional guidance can be found [here](#).
- Consult with local health departments if routine testing is being considered by a local educational agency. The role of providing routine systematic testing of staff or students for COVID-19 (e.g., PCR swab testing for acute infection, or presence of antibodies in serum after infection) is currently unclear.
- Support students who are at higher risk for severe illness or who cannot safely distance from household contacts at higher risk, by providing options such as virtual learning or independent stud



## 12. Considerations for Reopening and Partial or Total Closures

California schools have been closed for in-person instruction since mid-March 2020 due to the COVID-19 pandemic. School closures to in-person instruction were part of a broader set of recommendations intended to reduce transmission of SARS-CoV-2, the virus that causes COVID-19. For more detailed direction on measures to be taken when a student, teacher, or staff member has symptoms or is diagnosed with COVID-19, please see the [COVID-19 and Reopening Framework for K-12 Schools in California](#).

- Check State and local orders and health department notices daily about transmission in the area or closures and adjust operations accordingly.
- When a student, teacher or staff member tests positive for COVID-19 and had exposed others at the school, refer to the [CDPH Framework for K-12 Schools](#), and implement the following steps:
  - In consultation with the local public health department, the appropriate school official may decide whether school closure versus cleaning and quarantine of exposed persons or other intervention is warranted, including the length of time necessary, based on the risk level within the specific community as determined by the local public health officer.
  - Close off the classroom or office where the patient was based and do not use these areas until after cleaning and disinfection. Wait at least 24 hours before cleaning and disinfecting. If 24 hours is not feasible, wait as long as possible.
  - Additional areas of the school visited by the COVID-19 positive individual may also need to be closed temporarily for cleaning and disinfection.
  - Implement communication plans for exposure at school and potential school closures to include outreach to students, parents, teachers, staff and the community.
  - Include information for staff regarding labor laws, information regarding Disability Insurance, Paid Family Leave and Unemployment Insurance, as applicable to schools. See additional [information on government programs supporting sick leave and worker's compensation for COVID-19](#), including worker's sick leave rights under [the Families First Coronavirus Response Act](#) and employee's rights to workers' compensation benefits and

presumption of the work-relatedness of COVID-19 pursuant to the [Governor's Executive Order N-62-20](#), while that Order is in effect.

- Provide guidance to parents, teachers and staff reminding them of the importance of community physical distancing measures while a school is closed, including discouraging students or staff from gathering elsewhere.
- Develop a plan for continuity of education. Consider in that plan how to also continue nutrition and other services provided in the regular school setting to establish alternate mechanisms for these services to continue.
- Maintain regular communications with the local public health department.

