

March 17, 2020

Yesterday, the California Legislature passed [SB 117](#), emergency legislation to implement Governor Newsom's executive order (N-26-20) regarding school funding and related topics during the Coronavirus-19 (COVID-19) crisis. The bill was enacted in great haste with virtually no public discussion and includes the following key features with respect to schools that close due to COVID-19 and generally comply with the following:

- Shifts the usual "P-2" attendance reporting cut-off date from mid-April to the end of February for schools that closed due to COVID-19 and that comply with the [terms of the executive order](#). This has the effect of using school attendance data through February as a proxy for what the usual P-2 figure would have been and generally should hold closed schools harmless from reductions in attendance from March 1, 2020 onward.
- Declares legislative intent that schools funded under this revised methodology "ensure that the local education agency's employees and contractors are compensated and paid during the period of time a school is closed...as reasonably anticipated if the school had not been closed due to COVID 19."
- Deems schools to have met the usual minimum annual instructional day and minutes requirements during the period the school was closed due to COVID-19 and waives related penalties for missing the usual days/minutes targets.
- Requires a school administrator to certify that a school was closed due to COVID-19 and provide additional information related to the closure as requested by the State Superintendent. CSDC presumes this will allow subject schools to directly self-certify this closure information in lieu of the usual emergency ADA

requirements which typically require additional certifications by school district and county superintendents.

- Provides that charter schools that do not have independent study programs to offer independent study and distance learning during a closure due to COVID-19 to do so without requiring a material revision to their charter petition, provided they are in compliance with the [terms of the executive order](#).
- Deems a closure due to COVID-19 a “qualifying event” that relieves operators of After School Education and Safety (ASES) programs from the usual obligation to submit a request for pupil attendance credits and provides that “grantees shall be credited with the average annual attendance that the grantee would have received it had been able to operate its entire program” during a COVID-19 closure.
- Provides similar continued funding protection for childcare and child development programs, deferring to forthcoming “informal directives and bulletins” from the State Superintendent.
- Extends deadlines for assessing English learners by 45 days, “unless otherwise determined” by the State Superintendent. We presume additional guidance from the State Superintendent will clarify this.
- Extends the testing window for the California Assessment of Student Performance and Progress (CASPP) assessments, Physical Fitness Test, and English learner testing (ELPAC) and reassessments by the length of time a school is closed due to COVID-19, or until the end of the testing window, whichever comes first.

- Extends the usual 15-day deadline in state law to develop an assessment plan for a student who may have an exceptional need and has been referred to assessment or reassessment by the number of days a school is closed due to COVID-19. Also extends 5-day deadlines to provide parents with requested records and new LEAs with records if a school is closed due to COVID-19, until the school reopens, and the regular school session reconvenes. These state law deadlines are extended “even if a local education agency continues to offer educational opportunities through distance learning or independent study” during a COVID-19 closure. Note that these waivers of state legal deadlines do not waive federal laws that govern this dicey topic.
- Appropriates \$100 million to be apportioned on a per-ADA basis, and provides at least \$250 per schoolsite, for schools “that provide a classroom-based educational program to pupils after March 4, 2020 and before June 30, 2020.” These funds “shall be used to purchase personal protective equipment, or to pay for supplies and labor related to cleaning schoolsites, or both.”

The Legislature also approved [SB 89](#), a bill appropriating \$500 million “for any purpose” related to the COVID-19 crisis. The amount may be increased with specified notice to the Legislature in \$50 million increments, not to exceed \$1 billion (sic.). Thus, the Governor will have considerable fiscal resources on tap to address COVID-19.

The Governor waived the usual “sunshine” requirement that bills must be in print for 3 days prior to adoption and the Legislature enacted both on unanimous votes. The Legislature has taken an unusual [joint recess](#) of both chambers from March 20 until April 13 and both houses have cancelled hearings and floor sessions until then.

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As you are aware, Governor Newsom tonight has issued Executive Order N-33-20 (copy enclosed), which orders "all individuals living in the State of California to stay home or at their place of residence **except as needed to maintain continuity of operations of the federal critical infrastructure sectors.**" We know that you have questions about the impact of this order on the functions and initiatives that have taken place in the week since Dr. Cameron Kaiser's initial order to close all Riverside County schools.

One of the 16 federal critical infrastructure sectors that is referenced in the Governor's Order is Government Facilities. **Included within that sector is a sub-section for K-12 schools.** Further, Ben Chida, advisor to Governor Newsom, has let education stakeholders know tonight that **the Administration continues to be firm that "critical functions of education as outlined under the governor's previous Executive Orders on Education are still in effect and exempt from the statewide stay-at-home order."**

Dr. Kaiser has also confirmed that, unless the governor's order specifically prohibits those activities from continuing, that schools have the authority to continue with the efforts on several fronts that have begun this week to serve students and families.

If further guidance is received which contradicts what has been shared by the Governor and his Administration this evening, that guidance will be shared as soon as it is received. However, **for now all districts should continue proceeding with their efforts that are aligned with the essential priorities outlined in the Governor's previous Executive Order:**

- Continue delivering high-quality educational opportunities to students, to the extent feasible, through distance learning and/or independent study.
- Provide school meals in non-congregate settings.
- Arrange for, to the extent practicable, supervision for students during ordinary school hours.
- Continue to pay employees.