



February 22, 2021

The Honorable Toni G. Atkins  
 Senate President pro Tempore  
 State Capitol, Room 205  
 Sacramento, CA 95814

The Honorable Anthony Rendon  
 Speaker of the Assembly  
 State Capitol, Room 219  
 Sacramento, CA 95814

## **Regarding: SB 86/AB 86 - The Safe and Open Schools Plan**

On behalf of the undersigned groups representing public school agencies, we write to express our concerns with SB 86/AB 86, as currently drafted, and to recommend an alternative we believe would expedite students returning to in-person instruction.

It is clear attempts were made by the Legislature to address several of the concerns we raised relative to efforts to reopen more schools to in-person instruction for students. Unfortunately, the language in SB 86/AB 86 could have unintended consequences and slow down current plans to expand reopening. The provisions of the \$2 billion reopening grant are also likely to force some schools currently open to close if they are forced to bargain with their labor partners.

### **Collective Bargaining**

While the language in SB 86/AB 86 makes efforts to directly address collective bargaining requirements, and those efforts are appreciated, we are concerned the bill's interaction with prior state guidance, and references to vaccines that may not be sufficiently available in all communities, will trigger demands to bargain working conditions in schools. This is particularly concerning for many schools that are currently providing in-person instruction to pupils without a Memorandum of Understanding (MOU) or collective bargaining agreement.

Districts are already actively working with their labor partners and other stakeholders to make sure that plans for reopening represent and address concerns that are raised. For reopening plans to work, they must be in the best interest of students, staff, and their families. Current state guidelines for reopening have allowed for these conversations to happen, and any legislation on this point should not hamper existing efforts.

Additionally, while SB 86/AB 86 do not require schools to make vaccines available to school staff prior to reopening, the bills do not include explicit language stating vaccine access is not a condition for returning to work and providing in-person instruction. Without this language, we are concerned vaccine access will be used as a reason to stall reopening efforts.

### **Testing Cadence**

The bill relies upon a testing cadence requirement that is not practical in many California communities and will serve as a barrier to reopening. We urge the Legislature and the Governor not to add a required testing regimen that exceeds local capacities and logistical realities. This will prevent schools from otherwise reopening in accordance with CDC guidance. Testing cadence should be locally determined and include the availability of both PCR and Antigen testing for schools.

### **New Reopening Timeline**

The bill establishes a new timeline expectation for reopening schools. Based upon CDC and other science, existing CDPH guidance establishes a clear pathway and expectation for TK-6 schools to open in the purple tier when county case rate averages fall below 25 per 100,000. SB 86/AB 86 establishes a new and conflicting standard in EC 43523(a)(6) of April 15 or within 15 days of the case rate dropping to 7 per 100,000 (red tier).

In our judgement, SB 86/AB 86 will further complicate and undermine the efforts of LEAs to open to in-person instruction as quickly as possible, consistent with existing CDPH guidance. Accordingly, we request the removal of 43523(a)(6) from the bill.

## **Timing**

The requirement that districts expend their In-Person Instruction Grants by July 30 is counterproductive, as it will interrupt instructional delivery mid-summer, and preclude efforts to facilitate students' successful re-entry into the regular school year. We recommend extending this deadline to the September 30.

## **Paraprofessionals Requirement**

The requirement in the legislation that 10% of Expanded Learning Time grant funds be spent on paraprofessional staff creates arbitrary and unnecessary on-going fiscal obligations for schools and does not help achieve the stated goal of the legislation. Decisions on how to best utilize one-time resources to address learning needs should live at the local level.

## **Recommendation**

COVID-19 infections and hospitalization rates have improved dramatically in recent weeks and it appears they will continue to do so. Vaccine distribution is also improving the overall situation and will continue to do so. In many counties, case rates and conditions are rapidly approaching reopening thresholds under the current state framework.

Despite clear intention and efforts to the contrary, it has been our experience that policy discussions to incentivize the reopening of more schools for in-person instruction will likely not have the desired effect, per our feedback above and the political realities we see before us.

For these reasons, our perspective is rooted in a “do no harm” approach. It appears the fastest route to reopening more schools to in-person instruction for students is to allow schools to reopen under the state’s framework without additional complications of more changing standards and rules.

## **Appreciation**

We want to acknowledge the tremendous amount of time and work the excellent staff of the two houses and the Administration have put into wrestling this important issue. We continue to be available for input and guidance on efforts to craft policy to help California’s schools emerge from COVID-19.

If we can provide any additional information, please contact Edgar Zazueta ([ezazueta@acsa.org](mailto:ezazueta@acsa.org)) or Dennis Meyers ([dmeyers@csba.org](mailto:dmeyers@csba.org)).

Sincerely,

## **STATEWIDE ASSOCIATIONS**

**Association of California School Administrators (ACSA)**  
**California Association of Latino Superintendents and Administrators (CALSA)**  
**California Association of School Business Officials (CASBO)**  
**California Association of Suburban Schools (CalSSD)**  
**California County Superintendents Educational Services Association (CCSESA)**  
**California School Boards Association (CSBA)**  
**School Employers Association of California (SEAC)**  
**Small School Districts Association (SSDA)**

COUNTY OFFICES OF EDUCATION

**Alameda County Superintendent of Schools, L.K. Monroe**  
**Contra Costa County Office of Education**  
**El Dorado County Office of Education**  
**Fresno County Superintendent of Schools, Jim Yovino**  
**Imperial County Office of Education**  
**Inyo County Office of Education**  
**Kern County Superintendent of Schools, Mary C. Barlow**  
**Kings County Superintendent of Schools, Todd Barlow**  
**Los Angeles County Office of Education**  
**Madera County Superintendent of Schools, Cecilia A Massetti**  
**Merced County Superintendent of Schools, Steve M. Tietjen**  
**Mono County Office of Education**  
**Napa County Office of Education**  
**Orange County Department of Education**  
**Placer County Office of Education**  
**Riverside County Office of Education**  
**Sacramento County Office of Education**  
**San Bernardino County Superintendent of Schools, Ted Alejandre**  
**San Diego County Office of Education**  
**San Joaquin County Office of Education**  
**San Luis Obispo County Office of Education**  
**San Mateo County Office of Education**  
**Solano County Office of Education**  
**Sonoma County Office of Education**  
**Stanislaus County Office of Education**  
**Tuolumne County Office of Education**

SCHOOL DISTRICTS

**Antelope Valley UHSD**  
**Bayshore ESD**  
**Campbell Union SD**  
**Central Valley Education Coalition (CVEC)**  
**Corona Norco USD**  
**El Dorado UHSD**  
**Inglewood USD**  
**Irvine USD**  
**Jurupa ESD**  
**Las Virgines USD**  
**Magnolia ESD**  
**Mt. Diablo USD**  
**Murietta Valley USD**  
**Napa Valley USD**  
**Natomas USD**  
**Needles USD**  
**Newhall USD**  
**Norwalk La Mirada USD**

**Pasadena USD**  
**Riverside USD**  
**San Jose USD**  
**San Ysidro USD**  
**Santa Ana USD**  
**Simi Valley USD**  
**Torrance USD**  
**Tustin USD**  
**Ventura USD**  
**Visalia USD**  
**West Covina USD**  
**Wheatland SD**  
**William S. Hart SD**  
**Yucaipa Calimesa JUSD**

cc: *Members, California State Senate*  
*Members, California State Assembly*  
*Kimberly Rodriguez, Policy Director – Senate President pro Tempore Toni Atkins*  
*Megan Baier, Policy Consultant – Senate President pro Tempore Toni Atkins*  
*Chris Woods, Budget Director – Senate President pro Tempore Toni Atkins*  
*Joe Stephenshaw, Staff Director – Senate Budget and Fiscal Review Committee*  
*Elisa Wynne, Deputy Staff Director – Senate Budget Subcommittee No. 1 on Education*  
*Myesha Jackson, Policy Director – Assembly Speaker Anthony Rendon*  
*Misty Feusahrens, Policy Consultant – Assembly Speaker Anthony Rendon*  
*Jason Sisney, Budget Director – Assembly Speaker Anthony Rendon*  
*Christian Griffith, Chief Consultant – Assembly Budget Committee*  
*Erin Gabel, Consultant – Assembly Budget Subcommittee No. 2 on Education*  
*Brooks Allen – Executive Director, California State Board of Education*  
*Jessica Holmes – Program Budget Manager, California Department of Finance*  
*Ben Chida – Chief Deputy Cabinet Secretary, Office of Governor Gavin Newsom*  
*Kirk Feely, Senate Republican Budget Director*  
*Jean Marie McKinney, Senate Republican Budget Consultant*  
*Roger Mackensen, Senate Republican Policy Consultant*  
*Joe Shinstock, Assembly Republican Fiscal Director*  
*Carolyn Nealon, Assembly Republican Budget Consultant*  
*Bob Becker, Assembly Republican Policy Consultant*